BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 426 1999

Bill HB128 S _____ Original bill & history ___C

H. Committee on Taxation		S. Committee on Taxation	
Hearing Date(s) 2/04	___C	Hearing Date(s) 3/19	___C
2/09	___C	4/07	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

Montana Legislative Branch

Montana Legislature

Detailed Bill Information

1999 January Regular

IMPORTANT: Links to LAWS documents have changed -- Read me!

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC0382 Current Bill Text: HTML

Bill Type - Number: HB 128 Fiscal Note

Short Title: Generally revise taxation of telecommunications

Primary Sponsor: Kim Gillan (D) HD 11

Chapter Number: 426

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 62

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/23/1999			
(H) Signed by Governor	04/23/1999			
(H) Transmitted to Governor	04/15/1999			
(S) Signed by President	04/14/1999			
(C) Printed - New Version Available	04/14/1999			
(H) Signed by Speaker	04/13/1999			
(H) Returned from Enrolling	04/13/1999			
(H) Sent to Enrolling	04/12/1999			
(S) Returned to House	04/10/1999			
(S) 3rd Reading Concurred	04/10/1999	49	1	
(S) Scheduled for 3rd Reading	04/10/1999			
(S) 2nd Reading Concurred	04/09/1999	50	0	
(S) Scheduled for 2nd Reading	04/09/1999			
(S) Committee Report--Bill Concurred	04/07/1999			(S) Taxation
(S) Committee Executive Action--Bill Concurred	04/07/1999	8	0	(S) Taxation
(H) Revised Fiscal Note Printed	04/07/1999			
(H) Revised Fiscal Note Received	04/06/1999			
(H) Revised Fiscal Note Requested	03/30/1999			
(S) Hearing	03/19/1999			(S) Taxation
(S) Hearing Canceled	03/15/1999			(S) Taxation
(S) Referred to Committee	03/13/1999			(S) Taxation
(S) First Reading	03/13/1999			
(H) Transmitted to Senate	03/12/1999			
(H) 3rd Reading Passed	03/12/1999	69	29	
(H) Scheduled for 3rd Reading	03/12/1999			
(C) Printed - New Version Available	03/10/1999			
(H) 2nd Reading Passed as Amended	03/10/1999	62	36	
(H) Scheduled for 2nd Reading	03/10/1999			
(H) Committee Report--Bill Passed as Amended	02/10/1999			(H) Taxation
(H) Committee Executive Action--Bill Passed as Amended	02/09/1999	19	1	(H) Taxation
(H) Hearing	02/04/1999			(H) Taxation

(H) Fiscal Note Printed	02/03/1999			
(H) Fiscal Note Signed	02/03/1999			
(H) Fiscal Note Received	01/30/1999			
(H) Sponsor List Modified	01/15/1999			
(H) Referred to Committee	01/04/1999			(H) Taxation
(H) First Reading	01/04/1999			
(H) Fiscal Note Requested	01/04/1999			
(C) Introduced Bill Text Available Electronically	12/21/1998			
(H) Introduced	12/21/1998			
(C) Pre-Introduction Letter Sent	12/15/1998			
(C) Draft in Assembly/Executive Director Review	12/15/1998			
(C) Draft in Final Drafter Review	12/15/1998			
(C) Draft in Input/Proofing	12/15/1998			
(C) Draft to Drafter - Edit Review [JLN]	12/14/1998			
(C) Draft in Edit	12/14/1998			
(C) Draft in Legal Review	12/14/1998			
(C) Draft Taken by Drafter	12/14/1998			
(C) Draft Back for Redo	12/14/1998			
(C) Pre-Introduction Letter Sent	12/04/1998			
(C) Draft in Assembly/Executive Director Review	12/03/1998			
(C) Draft in Final Drafter Review	12/03/1998			
(C) Bill Draft Text Available Electronically	12/02/1998			
(C) Draft in Input/Proofing	12/02/1998			
(C) Draft to Drafter - Edit Review [JLN]	12/02/1998			
(C) Draft in Edit	12/01/1998			
(C) Draft in Legal Review	12/01/1998			
(C) Draft Taken by Drafter	11/25/1998			
(C) Draft Back for Technical Correction	11/25/1998			
(C) Draft in Legal Review	11/25/1998			
(C) Draft to Requester for Review	11/25/1998			
(C) Draft Request Received	10/27/1998			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Revenue Oversight Committee		
Drafter	Higgins	Gordon	
By Request Of	Revenue Oversight Committee		
Primary Sponsor	Gillan	Kim	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Communications (see also: Information Technology)		Simple	COM
Taxation--Corporations		Simple	TXCR
Taxation--Property		Simple	TXPR

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: Y
Session Law Ch. Number: 426
DEADLINE
Category: Revenue Bills
Transmittal Date: 03/30/1999
Return (with 2nd house amendments) Date: 04/15/1999

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
Sections 17 and 42	23-APR-99	
Sections 1-16, 18-41, 43, and 44	01-JAN-00	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

HOUSE BILL NO. 128

INTRODUCED BY GILLAN K

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TAXATION OF TELECOMMUNICATIONS SERVICES PROVIDERS; IMPOSING A 4 PERCENT STATEWIDE RETAIL TELECOMMUNICATIONS EXCISE TAX TO REPLACE REVENUE LOST FROM MOVING TELECOMMUNICATIONS SERVICES PROVIDERS' PROPERTY FROM CLASS NINE TO A NEW PROPERTY TAX CLASS THIRTEEN AND FROM THE REPEAL OF THE TELEPHONE COMPANY LICENSE TAX; REQUIRING THAT RURAL TELEPHONE COOPERATIVES OFFERING SERVICE IN AN AREA SERVED BY AN INCUMBENT LOCAL EXCHANGE PROVIDER COLLECT THE RETAIL TELECOMMUNICATIONS EXCISE TAX FROM CUSTOMERS IN THE INCUMBENT LOCAL EXCHANGE AREA; PROVIDING FOR THE DISTRIBUTION OF TAX REVENUE; PROVIDING THAT A PERCENTAGE OF THE RETAIL TELECOMMUNICATIONS EXCISE TAX BE USED TO REPLACE PROPERTY TAX REVENUE LOST FROM REDUCING THE TAX RATE ON TELECOMMUNICATIONS SERVICES PROVIDERS' PROPERTY FROM 12 PERCENT TO 6 PERCENT; TAXING TELECOMMUNICATIONS PROPERTY AT 6 PERCENT OF ITS MARKET VALUE; MOVING CLASS SEVEN TELECOMMUNICATIONS PROPERTY TO CLASS FIVE; CREATING A SEPARATE CLASS OF PROPERTY FOR CENTRALLY ASSESSED TELECOMMUNICATIONS PROPERTY; REVISING THE DEBT LIMITS OF TAXING JURISDICTIONS; AMENDING SECTIONS 7-1-2111, 7-7-107, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-14-2524, 7-14-2525, 7-16-2327, 7-16-4104, 15-1-501, 15-6-135, 15-6-137, 15-6-141, 17-7-502, 20-9-406, 35-18-503, AND 69-3-861, MCA; REPEALING SECTIONS 15-53-101, 15-53-102, 15-53-103, 15-53-104, 15-53-105, 15-53-106, 15-53-111, 15-53-112, 15-53-113, 15-53-114, 15-53-115, AND 69-3-860, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 19] may be cited as the "Retail Telecommunications Excise Tax Act".

NEW SECTION. **Section 2. Legislative findings and declaration of purpose.**

(1) The legislature finds that one measure of the state's economic competitiveness is the presence of an efficient and affordable telecommunications infrastructure using the latest technological advancements.

(2) The legislature further finds that the telecommunications industry is undergoing a dramatic change that is altering the identity of its participants, the nature of services that the industry provides, and the methods used to deliver those services.

(3) The legislature further finds that the existing method of property taxation of the telecommunications industry results in competitive inequities that hinder the investment in the state's telecommunications infrastructure.

(4) The legislature further finds that the evolving nature of the telecommunications industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to telecommunications property and imposing a replacement tax in order to:

(a) avoid placing telecommunications services providers at a competitive advantage or disadvantage;

(b) provide purchasers of telecommunications services with greater choices and lower retail prices; and

(c) preserve the revenue base of the existing property tax system for taxing jurisdictions in the state.

(5) The legislature further finds that a reduction in property tax rates applied to telecommunications services providers should be replaced with an excise tax on the purchasers of telecommunications services.

(6) The legislature further finds that taxes imposed on the telecommunications industry are in reality hidden taxes that are passed on to telecommunications customers in the form of higher prices and that such a policy is contrary to the principles of open government and a fully informed citizenry on the tax policies of the state.

(7) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of telecommunications services providers and to impose a retail telecommunications excise tax measured by the price of retail telecommunications on the purchaser to ensure competitive neutrality and

constancy of revenue to taxing jurisdictions in the state of Montana.

(8) The legislature further declares that to avoid additional competitive advantages or disadvantages, the telephone company license tax must be eliminated.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 19], unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is billed to a customer with a Montana service address. The term includes but is not limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

(3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by [sections 1 through 19];

(ii) charges added to a customer's bill under 10-4-201, 53-19-311, 69-3-844, and 69-3-860;

(iii) federal excise taxes or other federally imposed charges or fees;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for reconnection of service or for replacement of service or relocation of facilities;

(vii) the repair, inspection, or servicing of equipment located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) the sale of prepaid telephone calling cards.

(4) "Service address" means:

(a) the location from where the retail telecommunications services originated or where the retail telecommunications services are received; or

(b) where there is not a defined location, the location in Montana where the statement of charges for retail telecommunications services is mailed.

(5) "Telecommunications services provider" means a person providing retail telecommunications services.

NEW SECTION. **Section 4. Imposition of retail telecommunications excise tax -- rate.** An excise tax of 4% is imposed on the sales price of retail telecommunications services. The tax is imposed on the purchaser and must be collected by the telecommunications services provider.

NEW SECTION. **Section 5. Separate statement of tax -- no advertising to absorb or refund tax.** (1) The excise tax imposed by [sections 1 through 19] must be separately stated on the end-user customer's bill or statement.

(2) A telecommunications services provider may not advertise, hold out, or state to the public or to any customer that the tax imposed by [sections 1 through 19] will be absorbed or refunded.

NEW SECTION. **Section 6. Multistate exemption.** A customer, upon proof that the customer has paid a tax in another state on the consumption or use of retail telecommunications services, is allowed a credit against the tax imposed by [sections 1 through 19] if the tax has been paid to another state.

NEW SECTION. **Section 7. Application for permission to report on accrual**

basis. (1) A telecommunications services provider may apply to the department for permission to report and pay the retail telecommunications excise tax on an accrual basis.

(2) The application must be made on a form, prescribed by the department, that contains information that the department may reasonably require.

(3) A telecommunications services provider may not report or pay the retail telecommunications excise tax on an accrual basis unless the telecommunications services provider has received written permission from the department.

NEW SECTION. **Section 8. Rural telephone cooperatives -- subject to excise tax.** Rural telephone cooperatives providing retail telecommunications services in an area served by an incumbent local exchange carrier, as defined in 69-3-803, that is not a cooperative shall collect the retail telecommunications excise tax imposed by [sections 1 through 19] from customers in the incumbent local exchange carrier's service area.

NEW SECTION. **Section 9. Return required of telecommunications services providers.** (1) A return, on a form approved by the department, and payment of the tax for the preceding calendar quarter must be filed with the department on or before 60 days after the end of each calendar quarter in which the tax imposed by [sections 1 through 19] is payable. Each telecommunications services provider engaged in providing retail telecommunications services in this state that is subject to tax under [sections 1 through 19] shall file a return.

(2) Each telecommunications services provider liable to collect the tax under [sections 1 through 19] shall keep a record, on a form approved by the department, of all revenue received from providing retail telecommunications services for each quarter.

(3) The department may grant a reasonable extension of time for filing the return upon good cause shown.

NEW SECTION. **Section 10. Credit for taxes paid on worthless account -- taxes**

paid if account collected. (1) The retail telecommunications excise taxes paid on an accrual basis by a telecommunications services provider filing a return under [section 9] on sales found to be worthless and actually deducted by the person as bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) If the accounts are subsequently collected, the retail telecommunications excise tax must be paid on the amount collected.

NEW SECTION. **Section 11. Deficiency assessment -- review -- interest -- penalty.** (1) If the department determines that the amount of tax due is greater than the amount reported, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek a review of the determination pursuant to 15-1-211.

(2) (a) Interest on any deficiency must bear interest until paid at a rate of 1% a month or fraction of a month, computed from the original due date of the return.

(b) If payment is not made within 60 days, the tax is delinquent and a penalty of 10% must be added to the amount of the deficiency.

NEW SECTION. **Section 12. Credit for overpayment -- interest on overpayment.** (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of overpayment must be credited against any tax, penalty, or interest then due from the taxpayer, with the balance being refunded to the taxpayer or its successor through reorganization, merger, consolidation, or its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on deficiency assessments under [section 11] due from the date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves crediting or refunding the payment.

(3) (a) Interest may not accrue during any period of processing a claim for

a refund delayed more than 30 days by reason of failure of the taxpayer to provide information requested by the department for the purposes of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is credited or refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever date is later; or

(ii) if the amount of interest is less than $1.

NEW SECTION. **Section 13. Penalty and interest for delinquency -- waiver.** (1) Taxes due under [sections 1 through 19] become delinquent if not paid within 60 days after the end of each calendar quarter. The department shall add to the amount of all delinquent retail telecommunications excise taxes a penalty of 10% of the excise tax due plus interest at the rate of 1% a month or fraction of a month, computed from the date on which the tax becomes delinquent to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure to file the return, as required by [section 9], or to pay the tax due is provided to the department.

NEW SECTION. **Section 14. Estimation of tax upon failure to file return -- notice.** (1) If a telecommunications services provider fails, neglects, or refuses to file the return required by [section 9] within the time required or fails to pay the tax required by [sections 1 through 19] within the period provided for in [section 9], the department shall estimate the amount of revenue of the telecommunications services provider subject to tax under [sections 1 through 19] during the preceding quarter.

(2) The department shall compute the amount of excise tax due from the telecommunications services provider and mail to the telecommunications services provider a letter and tax assessment statement setting forth the amount of delinquent excise tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

NEW SECTION. **Section 15. Warrant for distraint.** If all or part of the tax imposed by [sections 1 through 19] is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand filed after the department files the warrant for distraint.

NEW SECTION. **Section 16. Statute of limitations.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless a notice of additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last day. If the taxpayer, before the expiration of the period prescribed for the assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the taxpayer files a claim for refund or the department has determined the existence of the overpayment and has approved the refund or credit of the overpayment. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a refund or credit allowed if a claim is not filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If the return is required and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

NEW SECTION. **Section 17. Administration -- rules.** The department shall:

(1) administer and enforce the provisions of [sections 1 through 19];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 19]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 19].

NEW SECTION. **Section 18. Distribution of retail telecommunications excise tax revenue.** Retail telecommunications excise tax revenue collected by the department must be distributed as follows:

(1) 75% of the amount collected must be deposited in the account established in [section 19]; and

(2) the remaining 25% of the amount collected must be deposited in the state general fund.

NEW SECTION. **Section 19. Retail telecommunications excise tax -- account.** (1) There is within the state special revenue fund an account for the receipts of retail telecommunications excise tax revenue.

(2) There must be retained in the account the amounts necessary under [sections 1 through 19] to repay overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in amount, and pay any other refunds otherwise required.

NEW SECTION. **Section 20. Distribution of property tax replacement revenue -- statutory appropriation.** (1) Tax revenue deposited in the account established in [section 19] must be distributed as provided in this section.

(2) On or before January 1, 2000, the department shall determine a reimbursement ratio associated with reducing the tax rate on the property of telecommunications companies taxed under 15-6-141, as that section read on December 31, 1998, and provide that information to each county treasurer. The reimbursement ratio must be determined

for each taxing jurisdiction that levied mills on the taxable value of the property of telecommunications companies as that property was taxed under 15-6-141 in tax year 1998.

(3) The reimbursement ratio for each taxing jurisdiction to be used as the basis for the reimbursement amount is calculated using the formula RR = ((TV1 x ML1) + (TV2 x ML2) + (TV3 x ML3)/3)/(ST1 + ST2 + ST3)/3, where:

(a) RR is the reimbursement ratio;

(b) TV1 is the tax year 1996 taxable value of telecommunications property in the taxing jurisdiction, and ML1 is the tax year 1996 mill levy in the taxing jurisdiction applied to telecommunications property;

(c) TV2 is the tax year 1997 taxable value of telecommunications property in the taxing jurisdiction, and ML2 is the tax year 1997 mill levy in the taxing jurisdiction applied to telecommunications property;

(d) TV3 is the tax year 1998 taxable value of telecommunications property in the taxing jurisdiction, and ML3 is the tax year 1998 mill levy in the taxing jurisdiction applied to the telecommunications property;

(e) ST1 is the sum of (TV1 x ML1) for all taxing jurisdictions in the state for tax year 1996;

(f) ST2 is the sum of (TV2 x ML2) for all taxing jurisdictions in the state for tax year 1997;

(g) ST3 is the sum of (TV3 x ML3) for all taxing jurisdictions in the state for tax year 1998.

(4) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under [sections 1 through 19]. The tax year reimbursed amount for each taxing jurisdiction in the state is the product of multiplying the reimbursement ratio determined for the taxing jurisdiction in subsection (3) by the amount available in the account established in [section 19] for redistribution for the calendar quarter.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement as calculated by the department to each taxing jurisdiction.

(6) For the purposes of this section, "taxing jurisdiction" means a jurisdiction levying mills against telecommunications property described in 15-6-141, as that section read on December 31, 1998, and includes but is not limited to a county, city, school district, tax increment financing district, special district, or miscellaneous taxing district and the state of Montana.

(7) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the amount that would otherwise have to be raised by the mill levy.

(8) A local government taxing jurisdiction that ceases to exist after [the effective date of this section] will no longer be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created after January 1, 2000, will not be considered for revenue loss or reimbursement purposes. If a local government taxing jurisdiction that existed prior to January 2000 is split between two or more taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions.

(9) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the account established in [section 19] to reimburse eligible taxing jurisdictions for the reduction in the tax rate on telecommunications property classified under 15-6-141 prior to [the effective date of this section].

Section 21. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504, as follows:

(a) first class--all counties having a taxable valuation of $50 million or

more;

(b) second class--all counties having a taxable valuation of $30 million or more and less than $50 million;

(c) third class--all counties having a taxable valuation of $20 million or more and less than $30 million;

(d) fourth class--all counties having a taxable valuation of $15 million or more and less than $20 million;

(e) fifth class--all counties having a taxable valuation of $10 million or more and less than $15 million;

(f) sixth class--all counties having a taxable valuation of $5 million or more and less than $10 million;

(g) seventh class--all counties having a taxable valuation of less than $5 million.

(2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county as of the time of determination plus:

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

(c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under 15-36-324(13); ~~and~~

(f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141; and

~~(f)~~ (g) 6% of the taxable value of the county on January 1 of each tax year."

Section 22. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, ~~no~~ a city-county consolidated local government may not issue bonds for any purpose ~~which~~ that, with all outstanding indebtedness, ~~may exceed~~ exceed 39% of the taxable value of the property ~~therein~~ in the local government subject to taxation, as ascertained by the last assessment for state and county taxes, plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the local government for tax year 1999, multiplied by 39%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 23. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) A county may not become indebted in any manner or for any purpose in an amount, including existing indebtedness, in the aggregate exceeding 23% of the total of the taxable value of the property in the county subject to taxation~~,~~ plus:

(a) the value provided by the department of revenue in 15-36-324(13), as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness~~, plus,~~;

(b) ~~for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and~~ for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the county for tax year 1995, ~~in each case of class eight property,~~ multiplied by 23%; and

(c) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 23%.

(2) A county may not incur indebtedness or liability for any single purpose to an amount exceeding $500,000 without the approval of a majority of the electors of the county voting at an election to be provided by law, except as provided in 7-7-2402, 7-21-3413, and 7-21-3414.

(3) This section does not apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

Section 24. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) ~~through (4)~~ and (3), a county may not issue general obligation bonds for any purpose that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county~~,~~ plus:

(a) the value provided by the department of revenue under 15-36-324(13), to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds~~, plus,~~;

(b) ~~for general obligation bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for general obligation bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and~~ for general obligation bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the county for tax year 1995, ~~in each case of class eight property,~~ multiplied by 11.25%; and

(c) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

~~(2) In addition to the bonds allowed by subsection (1), a county may issue bonds that, with all outstanding bonds and warrants, will not exceed 27.75% of the total of the taxable value of the property in the county subject to taxation, plus the value provided by the department of revenue under 15-36-324(13), when necessary to do so, to be ascertained by the last assessment for state and county taxes, plus,~~

~~for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, and for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995.~~

~~(3)~~(2) In addition to the bonds allowed by ~~subsections~~ subsection (1) ~~and (2)~~, a county may issue bonds for the construction or improvement of a ~~jail~~ detention center that will not exceed 12.5% of the taxable value of the property in the county subject to taxation, plus the adjustments permitted by ~~7-7-2101~~ subsection (1).

~~(4)~~(3) The limitation in subsection (1) does not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932, or to bonds issued for the repayment of tax protests lost by the county."

Section 25. Section 7-7-4201, MCA, is amended to read:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, a city or town may not issue bonds or incur other indebtedness for any purpose in an amount that with all outstanding and unpaid indebtedness will exceed 28% of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus~~,~~:

(a) ~~for bonds to be issued or other indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for bonds to be issued or other indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and~~ for bonds to be issued or other indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, ~~in each case of class eight property,~~ multiplied by 28%; and

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 28%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding

warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness.

(3) The limitation in subsection (1) does not apply to bonds issued for the repayment of tax protests lost by the city or town."

Section 26. Section 7-7-4202, MCA, is amended to read:

"**7-7-4202. Special provisions relating to water and sewer systems.** (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town that owns and controls the water supply and water system and devotes the revenue from the water supply and water system to the payment of the debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both of the purposes, including all indebtedness that is contracted and that is unpaid or outstanding, may not in the aggregate exceed 55% ~~over and above~~ of the ~~28%,~~ debt limitation referred to in 7-7-4201~~,~~ of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus~~,~~:

(a) ~~for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and~~ for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, ~~in each case of class eight property,~~ multiplied by 55%; and

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 55%."

Section 27. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided in 7-7-2203, 7-7-2204, and this section, a county may not issue bonds that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county~~,~~ plus:

(a) the value provided by the department of revenue under 15-36-324(13). The taxable property and the amount of taxes levied on new production, production from horizontally completed wells, and incremental production must be ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

(2) A county may issue bonds that, with all outstanding bonds and warrants, will exceed 11.25% but will not exceed 22.5% of the total of the taxable value of the property~~,~~ plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by the amount that exceeds 11.25% but does not exceed 22.5%, plus the value provided by the department of revenue under 15-36-324(13) when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways that have been destroyed or damaged by an act of God or by a disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county may not exceed 22.5% of the total of the taxable value of the property within the county, ~~plus the value provided by the department of revenue under 15-36-324(13), as ascertained by the last preceding general assessment~~ as adjusted in this section."

Section 28. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds 22.5% of the total of the taxable value of the property in the county, ~~plus the value provided by the department of revenue under 15-36-324(13)~~ as adjusted in 7-14-2524, and the board determines that the county is unable to pay the indebtedness in full, the board may:

(a) negotiate with the bondholders for an agreement under which the bondholders

agree to accept less than the full amount of the bonds and the accrued unpaid interest in satisfaction of the bonds;

(b) enter into the agreement;

(c) issue refunding bonds for the amount agreed upon.

(2) These bonds may be issued in more than one series, and each series may be either amortization or serial bonds.

(3) The plan agreed upon between the board and the bondholders must be embodied in full in the resolution providing for the issuance of the bonds."

Section 29. Section 7-16-2327, MCA, is amended to read:

"**7-16-2327. Indebtedness for park purposes.** (1) Subject to the provisions of subsection (2), a county park board, in addition to powers and duties now given under law, may contract an indebtedness in behalf of a county, upon the credit of the county, in order to carry out its powers and duties.

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 13% of the total of the taxable value of the taxable property in the county~~,~~ plus:

(i) the value provided by the department of revenue under 15-36-324(13)~~, ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness~~; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 13%.

(b) Money may not be borrowed on bonds issued for the purchase of lands and improving the land for any purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at the election in the affected county and a majority vote is cast in favor of the bonds."

Section 30. Section 7-16-4104, MCA, is amended to read:

"**7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes.** (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit of the city

or town, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise swimming pool facilities, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or any combination of these facilities; and

(c) for furnishing, equipping, repairing, or rehabilitating a swimming pool facility, athletic field, skating rink, playground, museum, golf course, civic center, or youth center.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 16.5% of the taxable value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness, plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 16.5%. Money may not be borrowed for any purpose on bonds issued for the purchase of lands and improving the land until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor of the proposition."

Section 31. Section 15-1-501, MCA, is amended to read:

"**15-1-501. Disposition of money from certain designated license and other taxes.** (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

(a) income taxes, interest, and penalties collected under chapter 30;

(b) except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter 31;

(c) oil and natural gas production taxes allocated under 15-36-324(8)(a) and (10)(a);

(d) electrical energy producer's license taxes under chapter 51;

(e) ~~telephone company license taxes under chapter 53~~ an amount equal to 25% of the retail telecommunications excise tax collected under [sections 1 through 19];

(f) liquor license taxes under Title 16;

(g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(h) inheritance and estate taxes under Title 72, chapter 16; and

(i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department of revenue shall also deposit to the credit of the state general fund all money received from the collection of license taxes and fees and all net revenue and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

Section 32. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)~~(b)~~ (a);

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 800 persons or less.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1987 Standard Industrial Classification Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) Class five property is taxed at 3% of its market value."

Section 33. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) ~~all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;~~

~~(b)~~ all property owned by cooperative rural electrical ~~and cooperative rural telephone~~ associations that serve less than 95% of the electricity consumers ~~or telephone users~~ within the incorporated limits of a city or town, except rural electric cooperative properties described in 15-6-141(1)(a);

~~(c)~~(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) ~~To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.~~

~~(3)~~ Class seven property is taxed at 8% of its market value."

Section 34. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class nine property -- description -- taxable percentage. (1) Class nine property includes:

(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency

created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

(iii) property owned by organizations providing telephone communications to rural areas and classified in class ~~seven~~ five;

(iv) railroad transportation property included in class twelve; ~~and~~

(v) airline transportation property included in class twelve; and

(vi) telecommunications property included in class thirteen.

(2) Class nine property is taxed at 12% of market value."

NEW SECTION. **Section 35. Class thirteen property -- description -- taxable percentage.** (1) Class thirteen property includes allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural telephone associations and classified in class five; or

(b) property owned by organizations providing telecommunications services and classified in class five.

(3) Class thirteen property is taxed at 6% of its market value.

Section 36. Section 17-7-502, MCA, is amended to read:

"17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; [section 20]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-131; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-161; 85-20-402; 87-1-513; 90-3-301; 90-4-215; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for

the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)

17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; [section 20]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other

obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

Section 37. Section 20-9-406, MCA, is amended to read:

"**20-9-406. Limitations on amount of bond issue.** (1) (a) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus~~,~~:

(i) ~~for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and~~ for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, ~~in each case of class eight property,~~ multiplied by 45%; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the district for tax year 1999, multiplied by 45%.

(b) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of

the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus~~,~~:

(i) ~~for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and~~ for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, ~~in each case of class eight property,~~ multiplied by 90%; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the district for tax year 1999, multiplied by 90%.

(c) The total indebtedness of the high school district with an attached elementary district must be limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes, adjusted as provided in this section.

~~(c)~~(d) (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the corresponding statewide mill value per elementary ANB or per high school ANB may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection ~~(1)(c)~~ (1)(d), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district

ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

Section 38. Section 35-18-503, MCA, is amended to read:

"**35-18-503. Exemption from taxes.** Cooperatives and foreign corporations transacting business in this state pursuant to the provisions of this chapter, except as provided in 10-4-201 and [section 8], are exempt from all excise and income taxes."

Section 39. Section 69-3-861, MCA, is amended to read:

"**69-3-861. Interim universal access program -- account.** An interim universal access account is established in the state special revenue fund in the state treasury. All money received by the department of revenue pursuant to ~~69-3-860~~ the surcharge that was in effect during the fiscal year ending June 30, 1999, must be paid to the state treasurer for deposit in the account. After payment of refunds, the balance of the account must be used for the purposes described in 69-3-859."

NEW SECTION. **Section 40. Repealer.** Sections 15-53-101, 15-53-102, 15-53-103,

15-53-104, 15-53-105, 15-53-106, 15-53-111, 15-53-112, 15-53-113, 15-53-114, 15-53-115, and 69-3-860, MCA, are repealed.

NEW SECTION. **Section 41. Codification instruction.** (1) [Sections 1 through 19] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 19].

(2) [Section 20] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 20].

(3) [Section 35] is intended to be codified as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [section 35].

NEW SECTION. **Section 42. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective January 1, 2000.

(2) [Section 4] is effective on the occurrence of the contingency provided for in [section 45(1)].

(3) For the purposes of promulgating administrative rules under [section 17], [section 17] and this section are effective on passage and approval.

NEW SECTION. **Section 43. Applicability.** [This act] applies to tax years beginning after December 31, 1999.

NEW SECTION. **Section 44. Contingent voidness.** (1) If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is declared invalid, then [section 4] is effective on January 1 of the year following the date of the determination of invalidity.

(2) If [LC 540] is submitted to and not approved by the electorate at the tax election to be held in 1999, then [this act] is void.

- END -

FISCAL NOTE

Bill #: **HB0128**

Title: **Generally revise taxation of telecommunications**

Primary Sponsor: **Kim Gillan**

Status: **As introduced**

Sponsor signature Date

Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
General Fund	$76,923	$599,179
Revenue:		
General Fund	2,314,070	933,754
State Special Revenue	236,280	60,994
Net Impact on General Fund Balance:	**$2,237,147**	**$334,575**

Yes	No		Yes	No	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. This act is effective January 1, 2000.

Telecommunications Taxes

2. The repeal of the telecommunication license tax will reduce state general fund revenue by $3,172,000 in FY2000 and $6,650,000 in FY2001.
3. The tax rate for the proposed telecommunication excise tax is 4%.
4. Montana end-user retail revenue from telecommunications services taxable under the proposed excise tax , after deducting coin revenue from pay phones and pre-paid calling card revenue, is $670,302,000 for FY2000 and $702,610,000 for FY2001.
5. Revenue from the proposed telephone excise tax is estimated to be $13,406,000 in FY2000 and $28,104,000 in FY2001.

6. Revenue from the 25% allocation of the excise tax to the general fund is $3,351,500 in FY2000 and $7,026,000 in FY2001.
7. Revenue from the 75% allocation to the telecommunications excise tax account is $10,054,500 in FY2000 and $21,078,000 in FY2001. These funds are available for subsequent distribution to taxing jurisdictions experiencing property tax reductions.

Reimbursements

8. Reimbursements are quarterly, after the receipt of quarterly excise tax payments.
9. Revenue available for reimbursement to state and local government taxing jurisdictions is distributed based on the relative proportion of telecommunications property taxes received by each jurisdiction, as determined under the reimbursement formulae in the bill. (Actual tax year 1998 distribution of telecommunication property taxes was used for the purposes of this fiscal note.)
10. Because of the delay in the receipt of excise tax payment after the end of the calendar quarter, only one cash reimbursement payment will be made in FY2000 to local governments.
11. Four reimbursement payments will be made to local governments in FY2001. The first payment is equal to the local government portion of the excise tax payment made for the last calendar quarter occurring in FY2000. The following three payments equal the local government portions of the next three excise tax payments, which occur in FY2001.
12. Reimbursement amounts for FY2000 and FY2001 will be distributed proportionate to the loss of property tax revenue.

Property Tax Reduction

13. Class 9 telecommunication property, which is taxed at 12%, is moved to a new class, 13, which is taxed at 6%. Rural telecommunication service provider property is moved from class 7 to class 5, which will reduce the taxable value from 8% to 3% of market value.
14. The reclassification of property will result in a total reduction in taxable value of $41,232,684 beginning in tax year 2000 (FY2001 impact). Of this total, $20,303,003 is in counties where 9 mills for state assumption of welfare is levied.
15. Mill levies are 95 mills for the state general fund, 6 mills for the university, and an average mill levy of 342 for local governments.
16. Property tax revenue for the 95 mill levy will be reduced by $3,917,105 in FY2001.
17. Property tax revenue for the 6 mill university levy will be reduced by $247,396 in FY2001.
18. Property tax revenue for the 9 mill state assumption of welfare levy will be reduced by $182,727 in FY2001.
19. Property tax revenue for local governments will be reduced by $14,101,578 in FY2001.
20. The total reduction in property taxes in FY2001 is estimated to be $18,448,806. The distribution of the total the total reduction in property taxes is 21.23% to the 95 mill levy, 1.34% to the 6 mill levy, 0.99% to the 9 mill levy, and 76.44% to local governments. These percentages will be used to distribute reimbursement funds from the telecommunication excise tax.
21. Taxable value decrease and non-levy revenue reimbursements will cause school districts to change GTB levies in FY2001. The change in levies to maintain minimum budgets required under section 20-9-308(1)(a), MCA will increase state GTB aid by $534,506 in FY2001 (See technical note #1).

Administrative Impacts (Department of Revenue)

22. There are an estimated 414 telecommunication service providers.
23. For the telecommunication excise tax the department is required to:

- collect the tax quarterly and balance previous quarter's tax collection;
- track multi-state exemptions;
- allow for different mechanisms of reporting by the telecommunication service provider;
- develop forms and determination filings;
- determine who is subject to the tax (i.e. rural cooperatives);
- provide for credits for taxes paid on worthless accounts;
- assess deficiency assessments, credit overpayments, calculate penalty and interest, estimate taxes and file warrants for distraint.

24. There will be an increase in the number of companies centrally assessed under this proposal based on the telecommunication service provider definition in section 3.
25. The administration of the replacement revenue is similar to other reimbursement programs the department has managed (1990 Legislature's HB20 and 1995 Legislature's SB417). The department will be required to calculate the reimbursement ratio, then distribute the replacement revenue each calendar quarter starting in March of 2000.
26. The excise tax will be managed on a PC based spreadsheet application.
27. The above requirements will require 2.00 FTE to administer.

FISCAL IMPACT:	FY2000 Difference	FY2001 Difference
FTE	2.00	2.00
Expenditures:		
Personal Services	$60,189	$59,779
Operating Expenses	12,734	$4,894
Equipment	4,000	0
Local Assistance – School GTB	0	534,506
TOTAL	$76,923	$599,179
Funding:		
General Fund (01)	$76,923	$599,179
Revenues:		
General Fund (01)		
Excise Tax Effects		
Repeal Telephone License Tax	($3,172,000)	($6,650,000)
New Telephone Excise Tax (25%)	3,351,500	7,026,000
95 Mills (Reimbursement)	2,134,570	4,474,859
Property Tax Reclassification		
95 Mills (Prop. Tax Reduction)	0	(3,917,105)
TOTAL	$2,314,070	$933,754
State Special Revenue (02)		
Excise Tax Effects (Reimbursement)		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 4, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: None.

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

HB 128, 1/26/1999
HB 191, 1/26/1999

Executive Action:

HB 318 - Table
HB 405 - Do Pass as Amended

HEARING ON HB 128

Opening Statement by Sponsor:

Rep. Kim Gillan, House District 11 EXHIBIT(tah28a01)
{Tape : 1; Side : A; Approx. Time Counter : 2.2}

Proponents' Testimony:

Barbara Ranf, U. S. West EXHIBIT(tah28a02) EXHIBIT(tah28a03)
{Tape : 1; Side : A; Approx. Time Counter : 12.4}

Mike Strand, Montana Independent Telephone Systems
{Tape : 1; Side : A; Approx. Time Counter : 20.6}

Geoff Feiss, Montana Telecom Association, EXHIBIT(tah28a04) EXHIBIT(tah28a05)
{Tape : 1; Side : A; Approx. Time Counter : 25.4}

John McNamara, AT&T EXHIBIT(tah28a06)
{Tape : 1; Side : B; Approx. Time Counter : 8.8}

John Fitzpatrick, Touch America (Subsidiary of Montana Power Co.)
{Tape : 1; Side : B; Approx. Time Counter : 17.4}

Evan Barrett, Montana Economic Development Corporation
{Tape : 1; Side : B; Approx. Time Counter : 23.2}

Dennis Burr, Montana Taxpayers Association
{Tape : 1; Side : B; Approx. Time Counter : 25.8}

Gloria Paladichuk, Richland Economic Development Association
{Tape : 2; Side : A; Approx. Time Counter : 0.7}

Opponents' Testimony:

Jay Preston, President, Ronan Telephone Co.
{Tape : 2; Side : A; Approx. Time Counter : 2.9}

Ivan Evelsizer, Attorney, Helena, Hot Springs Telephone Co.
EXHIBIT(tah28a07)
{Tape : 2; Side : A; Approx. Time Counter : 8.7}

Informational Testimony:

Gordon Morris, Executive Director, Montana Association of Counties
{Tape : 2; Side : A; Approx. Time Counter : 19.5}

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 26.3} continued through *{Tape : 3; Side : A; Approx. Time Counter : 14}*

Closing by Sponsor:

Rep. Gillan closed the hearing.
{Tape : 3; Side : A; Approx. Time Counter : 15.9}

HEARING ON HB 191

Opening Statement by Sponsor:

Rep. Kim Gillan, House District 11
{Tape : 3; Side : A; Approx. Time Counter : 19.2}

Proponents' Testimony:

None.

Opponents' Testimony:

Ivan Evilsizer, Attorney, Hot Springs Telephone Co.
{Tape : 3; Side : A; Approx. Time Counter : 20.4}

Questions from Committee Members and Responses:

None.

FISCAL NOTE

Bill #: HB 128

Title: Generally revise taxation of telecommunications

Primary Sponsor: Kim Gillan

Status: 3rd Reading

Dave Lewis 4-5-99

Sponsor signature Date

Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
General Fund	($547,718)	($1,145,562)
State Special Revenue	9,279,000	19,452,000
Revenue:		
General Fund	$1,890,932	$(256,824)
State Special Revenue	$9,495,201	$19,455,948
Net Impact on General Fund Balance:	$2,438,650	$888,738

Yes	No		Yes	No	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. This act is effective January 1, 2000; therefore the removal of the existing telephone license tax and the imposition of the telecommunications excise tax will occur on this date.

Telecommunications Taxes

2. It is estimated that the repeal of the telecommunication license tax will reduce state general fund revenues by $3,172,000 in fiscal 2000 and $6,650,000 in fiscal 2001.
3. The tax rate for the proposed telecommunication excise tax is 3.75%.
4. Because the proposed excise tax is clearly a tax levied on the purchaser, it is assumed that purchases of telecommunication services by the federal government are not taxable.
5. Montana end-user retail revenue from telecommunications services taxable under the new excise tax provided for in this bill, after deducting coin revenue from pay phones, pre-paid calling card revenue, and federal government purchases is $659,820,000 for fiscal 2000 and $691,623,000 for fiscal 2001.

HB 128 #2

6. Revenue from the proposed telephone excise tax is estimated to be $12,372,000 in fiscal 2000 and $25,936,000 in fiscal 2001.
7. Revenue from the 25% allocation of the excise tax to the general fund is $3,093,000 in fiscal 2000 and $6,484,000 in fiscal 2001.
8. Revenue from the 75% allocation to the telecommunications excise tax account is $9,279,000 in fiscal 2000 and $19,452,000 in fiscal 2001. These funds are available for subsequent distribution to taxing jurisdictions experiencing property tax reductions.

Reimbursements

9. Reimbursements are made quarterly, after the receipt of quarterly excise tax payments.
10. Revenue available for reimbursement to state and local government taxing jurisdictions is distributed based on the relative proportion of telecommunications property taxes received by each jurisdiction, as determined under the reimbursement formulae in the bill. (Actual tax year 1998 distribution of telecommunication property taxes was used for the purposes of this fiscal note.)
11. Despite the fact that telecommunications excise tax payments are not due until 60 days after the end of the calendar quarter, the subsequent quarterly reimbursements are accrued to all state accounts, so that all reimbursement payments to state accounts occur in the same fiscal year in which the excise tax liability occurs.
12. Because reimbursements to local governments are made 90 days after the end of the quarter for which they are due only one quarter of excise tax revenues will be reimbursed to local governments in fiscal year 2000. The second quarter of calendar year 2000 telecommunication excise tax revenue is accrued to the telecommunication excise tax account in fiscal 2000 but is not distributed to local governments until fiscal 2001. For these reasons the revenue redistributed to local governments in fiscal 2001 is equal to three quarters of the telecommunications excise tax account revenue from calendar year 2000 and one quarter from calendar year 2001.
13. It is assumed that the reimbursement amount for fiscal 2000 and fiscal 2001 will be distributed proportionate to the loss of property tax revenue.

Property Tax Reduction

14. Property tax reductions are the result of moving class 9 telecommunication property, which is taxed at 12%, to a new class, 13, which is taxed at 6%; moving rural telecommunication service provider property from class 7 to class 5, which will reduce the taxable value from 8% to 3% of market value; and due to the 4R Act, the reductions in taxable value for telecommunication property will necessitate a reduction in the taxable value of class 12 railroad and airline property.
15. Mill levies are 95 mills for the state general fund, 6 mills for the university, and an average mill levy of 342 for local governments.
16. It is estimated property tax revenue for the 95-mill levy will be reduced $4,220,484 in fiscal 2001.
17. It is estimated property tax revenue for the 6-mill university levy will be reduced $266,557 in fiscal 2001.
18. It is estimated property tax revenue for the 9-mill state assumption of welfare levy will be reduced $182,727 in fiscal 2001.
19. It is estimated property tax revenue for local governments will be reduced $15,028,683 in fiscal 2001.
20. The total reduction in property taxes in fiscal 2001 is estimated to be $19,698,451. The distribution of the total reduction in property taxes is 21.23% to the 95 mill levy, 1.34% to the 6 mill levy, .99% to the 9 mill levy, and 76.44% to local governments; these percentages will be used to distribute reimbursement funds from the telecommunication excise tax.
21. The change in taxable values and inclusion of non-levy revenue reimbursements will cause school districts to change GTB levies in fiscal years 2000 and 2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA. In FY2000 the increase in non-levy revenue to school districts will *decrease* state

GTB aid by $624,641 and in FY2001 taxable value changes and increases in non-levy revenue will *decrease* state GTB aid by $1,210,235.

Administrative Impacts

22. It is estimated that there are 414 telecommunication service providers.
23. For the telecommunication excise tax the department is required to:
    - collect the tax quarterly and balance previous quarter's tax collection;
    - track multi-state exemptions;
    - allow for different mechanisms of reporting by the telecommunication service provider;
    - develop forms and determination filings;
    - determine who is subject to the tax (i.e. rural cooperatives);
    - provide for credits for taxes paid on worthless accounts;
    - and assess deficiency assessments, credit overpayments, calculate penalty and interest, estimate taxes and file warrants for distraint.
24. There will be an increase in the number of companies centrally assessed under this proposal based on the telecommunication service provider definition in section 3.
25. It is estimated that the administration of the replacement revenue is similar to other reimbursement programs the department has managed (1990 Legislature's HB20 and 1995 Legislature's SB417). The department will be required to calculate the reimbursement ratios once and then distribute the replacement revenue each calendar quarter starting in March of 2000.
26. The excise tax will be managed on a PC based spreadsheet application.
27. The above requirements will require 2 FTE to administer.

FISCAL IMPACT:	FY2000 Difference	FY2001 Difference
FTE	2.00	2.00
Expenditures:		
Personal Services	$60,189	59,779
Operating Expenses	12,734	4,894
Equipment	4,000	$0
Local Assistance – Property Tax Reimb.	9,279,000	19,452,000
Local Assistance – School GTB	(624,641)	(1,210,235)
TOTAL	$8,731,282	$18,306,438
Funding:		
General Fund (01)	($547,718)	($1,145,562)
State Special (02)	9,279,000	19,452,000
Revenues:		
General Fund (01)		
Excise Tax Effects		
CL Telephone License Tax	($3,172,000)	($6,650,000)
PL Telephone Excise Tax (25%)	3,093,000	6,484,000
95 Mills (Reimbursement)	1,969,932	4,129,660
Property Tax Reclassification		
95 Mills (Prop. Tax Reduction)	0	(4,220,484)

Total general fund	$1,890,932	$(256,824)
State Special Revenue (02)		
PL Telephone Excise Tax (75%)	$9,279,000	$19,452,000
Excise Tax Effects (Reimbursement)		
6 Mills University	124,339	260,657
9 Mills Welfare	91,862	192,575
Property Tax Reclassification		
6 Mills University		(266,557)
9 Mills Welfare	0	(182,727)
Total state special	$9,495,201	$19,455,948

Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	$1,814,009	($856,003)
State Special Revenue (02)	216,201	3,948

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
No property tax effects with one quarter of reimbursements will result in a net revenue gain to local governments of $3,546,434 in fiscal 2000. The estimated property tax revenue reduction of $15,028,683 is not completely offset by the telecommunication excise tax reimbursement amount of $14,698,265, which results in a net revenue loss of $330,418 in fiscal 2001.

LONG-RANGE IMPACTS:
Impacts for fiscal years 2002 and beyond should reflect the impact in fiscal year 2001.

TECHNICAL NOTES:
1. Section 33 strikes 15-6-137 (1)(a), and it does not change what is currently 15-6-137 (1)(b) to 15-6-137 (1)(a).
2. The reimbursement language requires sending a check to the county treasurer to reimburse all taxing jurisdictions including "the state of Montana". Technically, this would require sending a check to the county treasurer sufficient to cover reimbursements to all accounts including the state general fund (95 mills). This results in needless paperwork, reimbursement calculations, personal time, etc just to send money to the county treasurer who must then turn around and sent it right back to the state. It is assumed that in administering this proposal the state would reimburse state accounts (6-mill university, 9-mill state assumed welfare, and 95-mill school) directly, and cut a check to the county treasurer sufficient to reimburse all local government taxing jurisdictions, including schools.

EXHIBIT 1
DATE 2-4-99
HB 128 Gilbert

1

Telecommunications Timeline

1876 Alexander Graham Bell is issued a patent for the telephone.

1900 In the early 1900's these was extensive, all out competition for both local and long distance telephone services, but virtually no connection of networks (interconnection). A business had to subscribe to several different telephone companies in order to reach its customers. The Bell system is reorganized and emerges under the control of the American Telephone and Telegraph Company.

1910 Congress enacts the Mann-Elkins Act which authorizes the Interstate Commerce Commission to regulate telephone services.

1913 To settle an antitrust suit American Telephone and Telegraph agrees to interconnect with other telephone companies (about 8,000 at that time).

1934 Congress passes the Communications Act of 1934. It establishes the Federal Communications Commission and gives them regulatory authority over all interstate and foreign communication by wire and radio, including telephones, telegraph and broadcasting.

1949 The Justice Department files an antitrust suit against AT&T and asks that its manufacturing arm, Western Electric, be spun off as a separate company. In 1956, an agreement is reached that AT&T will confine its activities to telephone services and government projects, to manufacture only products needed by the Bell system, and to make its existing patents available to anyone without charge.

1970 Optical fiber for long-range communications is developed.

1974 The Justice Department files an antitrust suit against AT&T, Western Electric, Bell Laboratories and all 22 of the Bell system operating companies with conspiracy to monopolize the telecommunications industry.

1984 The decree governing the breakup of the Bell system goes into effect. AT&T remains as a provider of long-distance service, and the 22 operating companies are consolidated into seven holding companies (the 7 Baby Bells) to provide local telephone services.

1990 General Instrument Corp. develops a way to compress and transmit video into digital form. The breakthrough allows data flowing over television, telephones and computers to be interchangeable. Convergence of the telecommunications industry (video, voice and data) increases.

1993 Congress authorizes the FCC to auction radio frequency licenses for commercial purposes, giving rise to new wireless services to the public.

1996 Congress passes the Federal Telecommunications Act of 1996 which establishes a framework where the local telecommunications market of the 7 Bell Operating Companies are opened to full competition, affordable access to telecommunications services (universal service funding) is provided, and requirements for the Bell Operating Companies to enter other markets are established.

Montana

1985 The Montana Legislature passes the 1985 Telecommunications Act, which states that "to the extent that it is consistent with maintaining universal service, it is further the policy of this state to encourage competition in the telecommunications industry, thereby allowing access by the public to resulting rapid advances in telecommunications technology."

1991 The Montana Legislature amends the 1985 Telecommunications Act to allow marketing flexibility of competitive products for regulated companies.

Governor Stan Stephens and U.S. Senator Conrad Burns form the Montana Telecommunications Advisory Council. The Council grows to more than 300 members. The Council's actions lead to the development of legislation in 1995 seeking a method to make policy changes to encourage competition and the deployment of more advanced telecommunications infrastructure in Montana.

1995 The Montana Legislature passes HB 460 which establishes the Governor's Blue Ribbon Telecommunications Task Force. This 15-member Task Force is asked to recommend policies, practices, and statutory changes that are required to meet customer needs, remove barriers, enhance competitiveness and economic development

1997 The Montana Legislature passes SB 89 which implements many of the policies recommended by the Governor's Blue Ribbon Telecommunications Task Force. These policies included: implement the Federal Telecommunications Act of 1996; provide for the registration of telecommunications companies doing business in Montana for consumer protection and taxation purposes; establish policies to allow competing companies to enter the local telecommunications market; put a mechanism in place to create a state universal service fund if one is needed to preserve affordable rates in a fully competitive market; set up an interim universal access program to assist schools, libraries and health care systems in gaining access to advanced telecommunication services.

2

EXHIBIT 2
DATE 2-4-99
HB 128

U S WEST Montana Customers

Residential Customer

Average Bill Today **$28.56**
Includes local service, features,
in-state long distance

Estimated Bill 4% excise tax - HB 128
Property and Telephone License
Tax reductions removed from rate. $26.81 - $27.31
+ 4% excise tax
$27.88 - $28.40

Small Business Customer

Average Bill Today **$49.34**
Includes local service, features,
in-state long distance

Estimated Bill 4% excise tax - HB 128
Property and Telephone License
Tax reductions removed from rate. $45.34 - $45.84
+ 4% excise tax
$47.15 - $47.67

These are estimates of what consumer's bills may look like after tax reductions are removed from our rates. We will file our proposal to reduce rates to reflect these tax changes with the Montana Public Service Commission. The PSC will hold an open hearing on that proposal where other parties, telecommunications companies and consumers, can intervene and recommend other proposals to the PSC. The PSC will make the final decision as to which rates are reduced and by how much.

Prepared by U S WEST, February 1999

EXHIBIT 3
DATE 2-4-99
HB 128

Montana's Property Taxation of Telecommunication Companies

Current System (range 3% to 12%)	Proposed - HB 128 (range 3% to 6%)
Class 5 - 3% real, personal & intangibles - 10 Telephone Cooperatives - 30 Electric Cooperatives	**Class 5 - 3%** - 10 Telephone Coops - 30 Electric Coops - 4 Companies formerly under Class 7
Class 7 - 8% real, personal & intangibles - includes 4 small privately owned companies	**Class 7 - moved to Class 5 at 3%**
Class 8 - 6% on personal property Class 4 - 3.82% on real property - includes 1 small privately owned company, all cellular/wireless, Cable TV, paging, internet, and any resellers who have property in state.	**Class 8 - Class 4** - no change under this proposal. Other proposals to reduce or eliminate Class 8.
Class 9 - 12% real, personal & intangible - includes 14 telecommunications companies	**Class 13 - 6%** - includes same 14 companies

Prepared by U S WEST, January 1999

Class 5 - Telephone Cooperatives

- Blackfoot Telephone Cooperative
- Interbel Telephone Cooperative
- Mid Rivers Telephone Cooperative
- Nemont Telephone Cooperative
- Northern Telephone Cooperative
- Range Telephone Cooperative
- Reservation Telephone Cooperative
- Three Rivers Telephone Cooperative
- Triangle Telephone Cooperative
- West River Telephone Cooperative

Class 7 - Telephone Companies

- Hot Springs Telephone Company
- Lincoln Telephone Company
- Project Telephone Company
- Southern Montana Telephone

Class 4/Class 8 - Telecommunications Companies

- Ronan Telephone Company
- Cellular & Mobile Radio Companies (number unknown - 45 registered with PSC)
- Two-way Paging Companies (number unknown)
- Resellers (number unknown)
- Telephone Cooperative separate for-profit subsidiaries (number unknown)
- Cable TV companies (number unknown)

Class 9 - Telecommunications Companies

- AT&T
- Central Montana Telecommunications, Inc.
- Century
- Citizens Telecommunications
- Clark Fork Telecommunications
- MCI Telecommunications
- Nemont Communications
- Sprint Communications
- TCT West, Inc.
- TCI Microwave Inc.
- TRI Touch America
- Valley Telecommunications
- U S WEST
- Western Telecommunications Inc.

EXHIBIT 4
DATE 2-4-99
HB 128

House Committee on Taxation

Hearing on HB 128 (K. Gillan)
Telecommunications Tax Reform
February 4, 1999

Testimony of Geoffrey A. Feiss, General Manager
Montana Telecommunications Association (MTA)

MTA REPRESENTS:

- large & small commercial and cooperative telecommunications service providers
- serving rural Montana, with over 150,000 access lines; but fewer than 3.5 access lines per mile (covering over 70% of the state's geography, but 30% of the state's population)
- with more than 3,000 miles of fiber
- providing state-of-the-art digital services, including wireless & wireline telephone, Internet, video, cable TV, etc.
- investing over $50 million annually in Montana; employing 500 Montanans; paying $8 million in property taxes; with operating revenues of $100 million
- actively involved in communities they serve.

Comments of MTA:

MTA commends Representative Gillan for her leadership in bringing HB 128 forward from the Revenue Oversight Committee. We are pleased to support this bill, which will provide needed tax relief for some of Montana's telecommunications companies and thereby improve the competitiveness and investment capabilities of these companies.

According to the "U.S. Industry and Trade Outlook for 1999," information technology sectors, including telecommunications services and equipment, are expected to grow an average of 8% this year, and will continue to be "the engine to drive continued U.S. economic expansion and make up for slowdowns in traditional manufacturing sectors."

As noted above, MTA's members conservatively are estimated to have invested over $50 million in Montana's infrastructure in 1998, and we pay over $8 million each year in property taxes. These taxes are reflected in the rates that consumers pay for their telecommunications services.

The goal of HB 128 is to reduce the discriminatory tax rates imposed on centrally assessed telephone companies. Class 9 companies currently pay a 12% property tax rate. HB 128 would reduce this rate to 6%, the same as other general class 8 businesses in Montana.

Meanwhile, class 7 property comprises centrally assessed rural telephone companies. These four companies currently pay an 8% property tax rate. This was supposed to be a "discounted" rate that would account for the high cost, low density nature of these companies' service areas. However, one of these companies was recently placed in class 7, and consequently faced a 50%

MONTANA
TELECOMMUNICATIONS
ASSOCIATION

208 North Montana Avenue, #207 Helena, Montana 59601
Phone: (406) 442-4316

tax increase. HB 128 would take these four companies and treat them more like rural co-operatives, which they most resemble, taxing them at a 3% rate.

Finally, HB 128 eliminates the telephone license tax. The Senate has just passed a bill that eliminates this tax for Internet service providers. It's time to eliminate it for the rest of Montana's telecommunications companies as well.

It should be noted that while HB 128 reduces the disparity between property tax rates within the telecommunications industry, the current tax burden paid by consumers is roughly the same between customers of large and small companies, commercial and co-operative alike. Because of the high cost and low population/customer density of rural telephone companies, rural Montana consumers pay about the same property taxes on a per capita basis as their urban colleagues.

To make up for the revenue lost by property tax reductions for centrally assessed companies, HB 128 imposes an excise tax on the customers not only of these companies, but on other telecommunications companies doing business in Montana. For example, wireless telecommunications providers, new telecom start-ups, and in the case of Section 8 of the bill, cooperatives, under certain conditions, would now be forced to pass an excise tax along to their customers, despite not having received any property tax relief.

Examples of new telecommunications investment that would be affected by HB128:

- In Eastern Montana, Mid-Rivers Telephone Cooperative is contributing to economic development in the region through competitive telecommunications services in Terry, Glendive, Wibaux, Sidney and other towns in the region. It has added $11 million to the tax base, provided 12 new full time, good-paying jobs; is providing customers with savings of more than $500,000; and has spent more than $1 million in contractor expenses.

- In Western Montana, Blackfoot Communications, a class 8 start-up competitive telecommunications service provider, has invested millions of dollars in its facilities in Missoula. This company, and others like it, pays the telephone license tax as well as 6% property tax, but has very few customers and a huge investment to recover.

These two companies, and others like them, are doing precisely what federal and state public policy intends: they are investing in infrastructure, creating jobs, and bringing competition to Montana's telecommunications marketplace. The results are already being felt in reduced prices and increased telecommunications service choices for Montana's consumers.

Forcing these companies to pass through an excise tax to their new or potential customers in order to pay for other companies' tax reductions sends the wrong message to these investors. Therefore, MTA is offering four amendments to HB128 which are designed to encourage such investment, without penalizing their customers.

The first of these amendments, in no particular order, ensures that the excise tax imposed by Section 8 on the customers of telephone cooperatives competing against non-cooperatives is applied to rural electric cooperatives as well, should they provide telecommunications services.

The second phases in, over a three-year period, the imposition of an excise tax on customers of

a company expanding into a competitive market. This amendment is intended to recognize the public policy of encouraging competition, as well as the substantial expense of investing in infrastructure prior to obtaining customers and a return on that investment. The amendment currently only applies to cooperatives under Section 8; but the concept of not discouraging competitive investment can apply to all competitive telecommunications start-ups.

The third amendment makes it optional for a company to itemize the excise tax on customers' bills. The House has already passed (99-0) a similar provision (HB196). This pro-competition, pro-consumer amendment would enable companies, at their own option, to absorb the consumer's cost of the excise tax, while keeping the state whole.

And the fourth amendment clarifies "rural areas" for purposes of defining class 5 property by increasing the number of persons served from "800 persons" to "1,200 permanent residents." This clarification would not alter the number of companies (4) affected by this section, but would remove any doubt that lingers as to applicability of this provision to existing telephone companies in Montana. This clarification adopts the Department of Revenue's recent interpretation of this statute.

These amendments are designed to improve, not threaten, HB128. With them, the positive effects of HB 128 are retained, while the potential negatives are ameliorated. Together, these amendments will promote investment, growth and competition in rural Montana.

EXHIBIT 5
DATE 2-4-99
HB 128

House Committee on Taxation

Hearing on HB 128 (K. Gillan)
Telecommunications Tax Reform
February 4, 1999

Amendments offered by Montana Telecommunications Association (MTA)

Summary

MTA REPRESENTS:

- large & small commercial and cooperative telecommunications service providers
- serving rural Montana, with over 150,000 access lines; but fewer than 3.5 access lines per mile (covering over 70% of the state's geography, but 30% of the state's population)
- with more than 3,000 miles of fiber
- providing state-of-the-art digital services, including wireless & wireline telephone, Internet, video, cable TV, etc.
- investing over $50 million annually in Montana; employing 500 Montanans; paying $8 million in property taxes; with operating revenues of $100 million
- actively involved in communities they serve.

Summary of Amendments:

1. Ensures that the excise tax imposed by Section 8 on the customers of telephone cooperatives competing against non-cooperatives is applied to rural electric cooperatives as well, should they provide telecommunications services.

2. Phases in, over a three-year period, the imposition of an excise tax on customers of a company expanding into a competitive market. This amendment is intended to recognize the public policy of encouraging competition, as well as the substantial expense of investing in infrastructure prior to obtaining customers and a return on that investment.

3. Makes it optional for a company to itemize the excise tax on customers' bills. The House has already passed 99-0 a similar provision (HB196). This pro-competition, pro-consumer amendment would enable companies, at their own option, to absorb the consumer's cost of the excise tax, while keeping the state whole.

4. Clarifies "rural areas" for purposes of defining class 5 property by increasing the number of persons served from "800 persons" to "1,200 permanent residents." This clarification would not alter the number of companies (4) affected by this section, but would remove any doubt that lingers as to applicability of this provision to existing telephone companies in Montana. The clarification adopts the Department of Revenue's recent interpretation of this statute.

MONTANA
TELECOMMUNICATIONS
ASSOCIATION

208 North Montana Avenue, #207 Helena, Montana 59601
Phone: (406) 442-4316

EXHIBIT 5

AMENDMENTS TO HOUSE BILL NO. 128

First Reading Copy

Section 8

1. Page 4, line 29.
Following: "telephone"
Insert: "or electric"

AMENDMENTS TO HOUSE BILL NO. 128

First Reading Copy

Section 8

1. Page 4, line 29.
Following: "tax."
Insert: "(1) "

2. Page 5, line 4.
Insert new subsection: "(2) The excise tax imposed by subsection (1) shall be phased in over a three year period, in equal annual amounts, pursuant to rules adopted by the Department."

AMENDMENTS TO HOUSE BILL NO. 128

First Reading Copy

Section 5

1. Page 4, line 10.
   Following: "of tax"
   Strike: "-- no advertising to absorb or refund tax"

2. Page 4, line 11.
   Following "[sections 1 through 19]"
   Strike: "must"
   Insert: "may"

3. Page 4, line 13.
   Strike: subsection (2), lines 13 and 14 in their entirety.

AMENDMENTS TO HOUSE BILL NO. 128

First Reading Copy

Section 32

1. Page 18, line 27.
   Strike: "800 persons"
   Insert: "1,200 permanent residents"

EXHIBIT 6
DATE 2-4-99
HB 128

1999 Montana Legislature

House Bill Number 128

Proposed Amendment to Section 3 – Definitions

Section 3 Definitions (3)(a)(xi) is amended to read:

(3)(a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(xi) ~~the sale of prepaid calling cards~~

(xi) charges paid by using a prepaid calling card or prepaid calling arrangement whereby telecommunications services are paid for in advance and enable the origination of calls using an access number or authorization code.

EXHIBIT 7
DATE 2-4-99
HB 128

TESTIMONY OF HOT SPRINGS TELEPHONE COMPANY
BEFORE THE HOUSE TAXATION COMMITTEE
IN OPPOSITION TO HOUSE BILL NO. 128 and HOUSE BILL NO. 191

I am Ivan (Chuck) Evilsizer, and I represent Hot Springs Telephone Company and Ronan Telephone Company, two small independent telephone companies in western Montana. I appear today in opposition to House Bill No. 128 and 191, on behalf of Hot Springs Telephone Company, which would revise the property tax rates for telecommunications firms, and impose a new Sales Tax of 4% on consumers bills (on virtually all of their telecommunications services).

Hot Springs Telephone Company strongly opposes the enactment of a Sales Tax on telecommunications consumers (the proposed "excise tax" is in fact a sales tax). Even though Hot Springs **might** benefit from a lower tax on its property from this Bill (depending upon the interpretation of Section 32) we oppose this as placing another tax on consumers that is uncalled for. If Section 32 is interpreted to leave many companies at the their current property tax level, then this will increase the overall tax burden tremendously. The people of this state have expressed their democratic opinion in no uncertain terms...that they are strongly opposed to a sales tax. This Bill is directly contrary to the clear will of the people of this state.

The overall tax burden on many consumers will be increased by this Bill. Even if it is allegedly revenue neutral overall, which is not at all clear, there will be some winners and some losers. Many consumers in rural parts of this state will end up paying more in taxes overall if this Bill is enacted. This Bill will increase the tax burden on those citizens least able to afford it; the rural agricultural community, senior citizens, low income persons and those on fixed incomes. Hot Springs feels a civic obligation to speak out on behalf of these groups.

The rationales/reasons for this legislation are allegedly to address changes in the telecommunications industry, that the existing system "results in competitive inequities" that

hinder the investment in the state's telecommunications infrastructure; and to "avoid placing telecommunications providers at a competitive advantage or disadvantage". See Section 2. In fact, this Bill perpetuates and expands upon the existing inequities. Cooperatives pay no income tax, no PSC tax, no Consumer Counsel tax, and a reduced property tax. In addition they are not regulated by the PSC. However, the new proposed Excise/Sales Tax is exempt from the Cooperative's service territories, whereas consumers in all other areas of the state must pay this new tax. In addition to being unfair on its face (why should some rural consumers pay this new tax, but not others?), this will exacerbate a serious existing problem in the industry: that is, Cooperatives utilizing their preferences and advantages to compete against regulated and higher taxed firms for the same customers, and worsening an unlevel, inequitable competitive playing field.

There is also a serious ambiguity in Section 32 of the HB 128 which leaves it unclear which rural companies would be taxed at the 6% rate, and which would be taxed at the 3% rate. The vague language in question, which defines telephone companies included in Class Five, states: "all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 800 persons or less." Depending upon the interpretation of this section, the tax revenues and burden on rural customers would vary greatly.

Hot Springs Telephone Company respectfully urges your vote against House Bill No. 128 and 191. I will be glad to answer any questions you may have.

IVAN C. EVILSIZER
TELECOMMUNICATIONS ATTORNEY
2033 ELEVENTH AVENUE
HELENA, MONTANA 59601-4875
(406) 442-7115
Fax: (406) 442-2317
E-Mail: Evilsizer2@aol.com

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL

DATE OF MEETING 2-4-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Beck	✓		
Rep. Dale	✓		
Rep. Davies	✓		
Rep. Erickson	✓		
Rep. Fuchs	✓		
Rep. Gillan	✓		
Rep. Guggenheim	✓		
Rep. Hanson	✓		
Rep. Harper	✓		
Rep. Harrington	✓		
Rep. Holden	✓		
Rep. Jackson	✓		
Rep. Orr	✓		
Rep. Raney	✓		
Rep. Rehbein	✓		
Rep. Rose	✓		
Rep. Schmidt	✓		
Rep. Somerville	✓		
Rep. Story	✓		
Rep. Hibbard	✓		

VISITOR REGISTER

HOUSE TAXATION COMMITTEE

DATE: 2-4-99

BILL NO: HB 128 **SPONSOR:** Rep. Gillan

NAME AND ADDRESS (PLEASE PRINT)	REPRESENTING	TYPE OF WITNESS		
		Informational	Support	Oppose
Gloria Paladichuk	Richland Econ. Dev.		✓	
Dennis Burr	MOORTAX		✓	
Jim Hayhurst	USWest		✓	
Tom Ebzery	USWest		✓	
Barbara Ranf	USWest		✓	
Mike Strand	MITS		✓	
Gordon Morris	MACo	✓		
John McNamara	AT&T		✓	
Geoff Feiss	MT Telecom Assn		✓	
Jay Preston	Ronan Telephone			✓
Bert Preston	Ronan Telephone			✓
John Fitzpatrick	Touch America		✓	
Evan Barrett	MEDA		✓	

Please leave prepared testimony with secretary.
Witness statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 9, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Rick Dale (R)
Rep. Hal Harper (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

* * * * *

Rep. Gillan commented on the scheduling of bills, noting the executive action on SB 200 in particular.
{Tape : 3; Side : B; Approx. Time Counter : 1}

* * * * *

EXECUTIVE ACTION ON HB 128

Motion:

Rep. Gillan MOVED DO PASS.
{Tape : 3; Side : B; Approx. Time Counter : 11.9}

Motion:

Rep. Gillan MOVED DO PASS on a conceptual amendment which would lower the excise tax from 4% to 3.75% and adjust the distribution.
{Tape : 3; Side : B; Approx. Time Counter : 12.4}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 15.4}

Motion/Vote:

Rep. Story MOVED to segregate the amendment. **The MOTION PASSED** unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 2.9}

Motion/Vote:

The **MOTION PASSED** reducing the excise tax to 3.75% from 4%, 16 - 4. Story, Orr, Rose, Guggenheim, Jackson, Harrington, Dale, Rehbein, Beck, Davies, Fuchs, Harper, Hanson, Raney Gillan and Hibbard voting yes; Schmidt, Holden, Somerville and Erickson voting no.
{Tape : 4; Side : A; Approx. Time Counter : 3.5}{}

Discussion:

Rep. Gillan withdrew her motion to change the distribution.
{Tape : 4; Side : A; Approx. Time Counter : 5.6}

Motion:

Rep. Jackson MOVED to exempt calling cards. **EXHIBIT(tah32a08)**
{Tape : 4; Side : A; Approx. Time Counter : 9.4}

Vote:

The **MOTION PASSED**, on a voice vote, 18 - 2. Holden and Harper voting no.

Motion:

Rep. Rose MOVED to add "permanent" to sections 1 and 4.
EXHIBIT(tah32a09)
{Tape : 4; Side : A; Approx. Time Counter : 18.7}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 19.6}

Motion/Vote:

Rep. Rose MOVED to amend his amendment. The **MOTION PASSED** unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 23.5}

Vote:

The **MOTION PASSED** unanimously on the amended amendment.

Motion/Vote:

Rep. Gillan MOVED DO PASS on amendments.**EXHIBIT(tah32a10)**
The motion passed unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 25}

Discussion:

{Tape : 4; Side : B; Approx. Time Counter : 4}

Motion

Rep. Gillan MOVED that HB 128, as amended, **DO PASS.**
{Tape : 4; Side : B; Approx. Time Counter : 11.9}

Discussion:

{Tape : 4; Side : B; Approx. Time Counter : 13}

Vote:

On a voice vote, the **MOTION PASSED, 19 - 1.** Rep. Orr voting no.

EXECUTIVE ACTION ON HB 191

Motion:

Rep. Gillan MOVED HB191 DO PASS.
{Tape : 4; Side : B; Approx. Time Counter : 17.8}

Motion/Vote:

Rep. Holden MOVED a conceptual amendment. The **MOTION PASSED** unanimously.
{Tape : 4; Side : B; Approx. Time Counter : 18.4}

Motion/Vote:

Rep. Gillan MOVED that HB 191, as amended, **DO PASS.** The motion passed unanimously.
{Tape : 4; Side : B; Approx. Time Counter : 20.8}

Adjourn.
{Tape : 4; Side : B; Approx. Time Counter : 21.1}

ADJOURNMENT

Adjournment: 12:05 A.M.

_____

REP. CHASE HIBBARD, Chairman

_____

DONNA GRACE, Secretary

CH/DG

EXHIBIT(tah32aad)

EXHIBIT 8
DATE 2-9-99
HB 128

Amendments to House Bill No. 128
1st Reading Copy

For the House Taxation Committee

Prepared by Jeff Martin
February 8, 1999

1. Page 3, line 27.
Strike: "the sale of prepaid telephone calling cards"
Insert: "charges for telecommunications services that have been prepaid by a prepaid calling card ~~or other prepaid calling arrangement~~ that enables the origination of calls by using an access number or authorization code"

- END -

EXHIBIT 9
DATE 2-9-99
HB 128

Amendments to House Bill No. 128
1st Reading Copy

For the House Taxation Committee

Prepared by Jeff Martin
February 8, 1999

1. Title, page 1, line 10.
Following: "COOPERATIVES"
Insert: "AND RURAL ELECTRIC COOPERATIVES"

2. Page 4, line 30.
Following: "cooperatives"
Insert: "or rural electric cooperatives"

3. Page 18, line 27.
Strike: "800"
Insert: "1,200"

- END -

EXHIBIT 10
DATE 2-9-99
HB 128

Amendments to House Bill No. 128
1st Reading Copy

For the House Taxation Committee

Prepared by Jeff Martin
February 8, 1999

1. Page 9, line 5.
Following: "RR ="
Insert: "("

2. Page 9, line 6.
Following: "ML3)"
Insert: ")"

3. Page 9, line 21.
Following: "19]."90
Insert: "Within ~~60~~ days after the close of the calendar quarter, the department shall remit to each county treasurer the reimbursement amount calculated in this subsection (4)."
Strike: "tax year reimbursed"
Insert: "reimbursement "

4. Page 14, line 4.
Strike: "county"
Insert: "city or town"

5. Page 14, line 30.
Strike: "county"
Insert: "city or town"

6. Page 17, line 9.
Strike: "county"
Insert: "city or town"

- END -

strike page 2 line 2 insert "(1)" 1145

2 of 10

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL

DATE OF MEETING 2-9-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Beck	✓		
Rep. Dale			✓
Rep. Davies	✓		
Rep. Erickson	✓		
Rep. Fuchs	✓		
Rep. Gillan	✓		
Rep. Guggenheim	✓		
Rep. Hanson	✓		
Rep. Harper			✓
Rep. Harrington	✓		
Rep. Holden	✓		
Rep. Jackson	✓		
Rep. Orr	✓		
Rep. Raney	✓		
Rep. Rehbein	✓		
Rep. Rose	✓		
Rep. Schmidt	✓		
Rep. Somerville	✓		
Rep. Story	✓		
Rep. Hibbard	✓		

HOUSE STANDING COMMITTEE REPORT

February 9, 1999

Mr. Speaker:

We, your committee on **Taxation** report that **House Bill 128** (first reading copy -- white) **do pass as amended**.

Signed: _____
Representative Chase Hibbard, Chair

And, that such amendments read:

1. Title, page 1, line 6.
Strike: "4"
Insert: "3.75"

2. Title, page 1, line 10.
Following: "COOPERATIVES"
Insert: "AND RURAL ELECTRIC COOPERATIVES"

3. Page 3, line 27.
Strike: "the sale of prepaid telephone calling cards"
Insert: "charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code"

4. Page 4, line 7.
Strike: "4%"
Insert: "3.75%"

5. Page 4, line 29.
Following: "cooperatives"
Insert: "and rural electric cooperatives"

6. Page 4, line 30.

Committee Vote:
Yes 19, No 1.

321543SC.ham

2/9 4 pm

Following: "cooperatives"
Insert: "or rural electric cooperatives"

7. Page 9, line 5.
Following: "RR ="
Insert: "("

8. Page 9, line 6.
Following: "ML3)"
Insert: ")"

9. Page 9, line 21.
Following: "19]."
Insert: "Within 90 days after the close of the calendar quarter, the department shall remit to each county treasurer the reimbursement amount calculated in this subsection (4)."
Strike: "tax year reimbursed"
Insert: "reimbursement "

10. Page 14, line 4.
Strike: "county"
Insert: "city or town"

11. Page 14, line 30.
Strike: "county"
Insert: "city or town"

12. Page 17, line 9.
Strike: "county"
Insert: "city or town"

13. Page 18, line 27.
Strike: "800 persons"
Insert: "1,200 permanent residents"

14. Page 26, line 25.
Strike: "45(1)"
Insert: "44(1)"

15. Page 27, line 5.
Strike: "[LC 540]"
Insert: "House Bill No. 191"

- END -

HOUSE STANDING COMMITTEE REPORT

February 9, 1999

Mr. Speaker:

We, your committee on **Taxation** report that **House Bill 191** (first reading copy -- white) **do pass as amended.**

Signed: _____
Representative Chase Hibbard, Chair

And, that such amendments read:

1. Title, page 1, line 5.
Strike: "4"
Insert: "3.75"

2. Page 1, line 11.
Strike: "4%"
Insert: "3.75%"

3. Page 1, line 16.
Strike: "as provided in Title 13, chapter 1, MCA,"

4. Page 1, line 19.
Strike: "4%"
Insert: "3.75%"

5. Page 1, line 21.
Strike: "4%"
Insert: "3.75%"

6. Page 1, line 27.
Strike: "_ Bill No._ [LC 382]"
Insert: "House Bill No. 128"

Committee Vote:
Yes 20, No 0.

321544SC.ham

2/9 4 pm

- END -

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. HB128 DATE OF MEETING 2-9-99

MOTION: do pass Gillan

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. _____ DATE OF MEETING 2-9-99

MOTION: Story Lepson all the amendments

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt	Passed		
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Conceptual amendment - Lillow lower tax from 4% to 3.75 and adjust distribution

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: reduce
(1st amendment) amend to 3.75 Gillan

NAME	YES	NO	ABSTAIN
Rep. Story	✓		
Rep. Orr	✓		
Rep. Schmidt		✓	
Rep. Holden		✓	
Rep. Rose	✓		
Rep. Guggenheim	✓		
Rep. Jackson	✓		
Rep. Harrington	✓		
Rep. Dale	✓		
Rep. Sommerville		✓	
Rep. Erickson		✓	
Rep. Rehbein	✓		
Rep. Beck	✓		
Rep. Davies	✓		
Rep. Fuchs	✓		
Rep. Harper	✓		
Rep. Hanson	✓		
Rep. Raney	✓		
Rep. Gillan	✓		
Rep. Hibbard	✓		

16 – 4

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 125 DATE OF MEETING 2-9-99

MOTION: Geiser - Change addendum on page 8 second part of original amendment,

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

withdrawn

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Jackson amendment prompt calling rank exhibits.

NAME	YES	NO	ABSTAIN
Rep. Story	V		
Rep. Orr			
Rep. Schmidt		No	
Rep. Holden			
Rep. Rose		Holden	
Rep. Guggenheim			
Rep. Jackson		Harper	
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

18-2

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Rose Add Permanent

Passed Unanimously

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Amendments 1 + 4 - Rose

Add word "person"

Exhibit 9 Passed

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Amendment Do Pass as amended -

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: Amend the Engrossment 60 to 90 days. Do not pass as amended

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 128 DATE OF MEETING 2-9-99

MOTION: do pass amendments Gillan Exhibit 10

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose			
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale			
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 1-5 DATE OF MEETING 2-9-99

MOTION: Ellen Do pass as amended

NAME	YES	NO	ABSTAIN
Rep. Story			
Rep. Orr			
Rep. Schmidt			
Rep. Holden			
Rep. Rose	9 Y	= No	
Rep. Guggenheim			
Rep. Jackson			
Rep. Harrington			
Rep. Dale	10	= 1	
Rep. Sommerville			
Rep. Erickson			
Rep. Rehbein			
Rep. Beck			
Rep. Davies			
Rep. Fuchs			
Rep. Harper			
Rep. Hanson			
Rep. Raney			
Rep. Gillan			
Rep. Hibbard			

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 19, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 128, 3/15/1999
Executive Action: SB 529

HEARING ON HB 128

Sponsor: **REPRESENTATIVE KIM GILLAN, HD 11, BILLINGS**

Proponents: **Barbara Ranf, US West**
Lance Tade, Citizen Commiittee
Mike Strand, Montana Independent Telephone Systems
Dennis Burr, Montana Taxpayers Association
Geoff Feiss, Montana Telecommunications Association

John McNamara, AT&T
Evan Barrett, Montana Economic Developers Association
John Fitzpatrick, Touch America
Gloria Paladichuk, Richland Economic Development

Opponents: **None**

Informational Testimony: **Mary Bryson, Director, Department of Revenue**

Opening Statement by Sponsor:

REP. KIM GILLAN, HD 11, Billings, said that **HB 128** basically revises the taxation of telecommunication providers in the state of Montana, but it is more than a tax bill and it is more than a change in tax policy. She said she feels that **HB 128** is a major step essential for Montana's long-term economic growth, because it will ensure that Montana will have the necessary telecommunications infrastructure needed to be competitive for jobs and income in the future.

REP. GILLAN said that currently there are over 400 telecommunication providers in the state of Montana. She explained that **HB 128** eliminates the telephone license tax in Section 40, and changes property tax rates and classes in Sections 32 through 35. These changes narrow the existing classifications of various telecommunication providers from four classes down to three and collapses the rates, which range from 3% to 12%, to 3% to 6%. She pointed out that co-ops will stay at 3% and will not be responsible for an excise tax.

REP. GILLAN stressed that as changes in the tax policy reduce the rates, the lost revenues will be made up by an excise tax of 3.75%. She said every effort has been made to make this revenue neutral and to make sure that state, local governments and schools are kept whole and that consumers are not affected negatively.

Proponents' Testimony:

Barbara Ranf, US West, provided a handout entitled "Montana's Property Taxation of Telecommunication Companies," **EXHIBIT(tas62a01)**, which had a list of companies and what classes they fall in on the back.

Ms. Ranf said that changes in the telecommunication industry have resulted in companies providing the same services but being taxed

very differently. **HB 128** is the next step in bringing the benefits of competition to the marketplace in Montana. It makes Montana's taxation of telecommunications more competitive. US West sees these benefits from **HB 128:** 1) it reduces their property tax rates from 12% to 6%; 2) it eliminates the telephone license tax; and 3) it replaces the loss of revenues to local and state government from property tax reduction with a competitively neutral excise tax.

Ms. Ranf handed out a sample US West bill, **EXHIBIT(tas62a02),** which demonstrated the effects of **HB 128** to a residential customer and a small business customer of US West. She then distributed a handout entitled "Potential Time Line for Modification of US West Rates - Property Tax Reduction," **EXHIBIT(tas62a03).** She said US West will not recognize financial benefit and customers' bills will remain about the same, but that US West will benefit by having more competitive prices and the ability to invest in Montana's infrastructure in the future at a more competitive property tax rate.

Ms. Ranf said that **HB 128** leaves cooperatives at 3%, but it does have a provision in it which provides that when a cooperative comes into a territory and competes against other companies that are collecting that tax, they have to collect that excise tax. It does not change the property tax rate. Conversely, she said that an amendment was added on the House floor at the request of Ronan Telephone Company which states that when a company such as Ronan goes into a cooperative territory, they do not have to collect the excise tax.

Ms. Ranf said **HB 128** is critical legislation to encourage the benefits of competition in a telecommunications marketplace for Montana, and US West urges support and passage of this bill.

Lance Tade, Manager of Regulatory Affairs, Citizens Utilities Company, which is the parent company of Citizens Telecommunications Company of Montana, said that his company services 8500 customers in Lincoln County. He said in the past four years, Citizens has spent $12 million to update the services provided. Citizens is a class nine company, their property tax rate is 12%, and they are required to pay the telephone license tax. He said there is a need to update Montana's property tax structure and to level the playing field, and **HB 128** does that. He urged support.

Mike Strand, Executive Vice President and General Counsel, Montana Independent Telecommunications Systems, said his organization represents rural telephone cooperatives and independent rural telephone companies. He said that as the

gradual deregulation continues, many of the long-standing parameters within which the telecommunications companies formerly operated have to change, and one set of those parameters is the tax system.

Mr. Strand said that **HB 128** brings greater competitive parity to the tax treatment of companies that provide the same or similar telecommunication services. It also recognizes that most of Montana's cooperatives are not utilizing their cooperative status to compete outside of their current service areas. Therefore, they are left alone under this bill unless they choose to compete with other companies, in which event they are required to collect the same excise taxes as the other companies collect. He also said that there are four companies that do not fit into the cooperative category but are also not in the large company category, and these are service areas like cooperatives but are for-profit companies. This bill places their property tax at 3%, but they must also collect the excise tax.

Mr. Strand testified that **HB 128** strikes a good balance between achieving the goals of deregulation and increased competition while recognizing some of the unique challenges of infrastructure development and maintenance in highly rural states like Montana.

Dennis Burr, Montana Taxpayers Association, said that one of the changes this legislation will make is that the taxes will now be enumerated on customers' bills, no matter who provides the telecommunication services. He said the two most important things in this bill are 1) a level playing field for companies that compete, and 2) a lowering of the incidence of the tax on these companies to encourage investment in Montana.

Geoff Feiss, General Manager, Montana Telecommunications Association, said that it is particularly the class nine commercial companies who benefit from this bill, but also there is a provision in this bill which affects class seven companies. This bill eliminates class seven and moves them into cooperative status and changes their 8% tax rate to a 3% tax rate with the excise tax applied to their customers.

Mr. Feiss said MTA has two proposed amendments. He provided a copy of the first one, **EXHIBIT(tas62a04)**, and said that the second one is conceptual at this point. He said the first amendment simply changes the requirement in the bill that says the excise tax "must" be passed through as a line item on the bill and makes it optional. He said the second amendment which they are working on is the provision that **Ms. Ranf** mentioned that was added on the House floor to address the concern expressed by Ronan Telephone Company.

Mr. Feiss also provided a letter from Calvin Simshaw of CenturyTel of Montana in support of **HB 128, EXHIBIT(tas62a05).**

John McNamara, Regional Tax Director, AT&T, said that they agree that Montana's tax policy should be revised in order to equalize taxation. **HB 128** is a major step in that direction. This would create a tax environment in the state of Montana that is much more consistent with the tax environment that exists in the other states in the United States, and as a consequence, eliminates any barriers that the current tax policies might create in terms of investment in the state of Montana.

Mr. McNamara said that AT&T does not support the amendment to absorb the tax, but they urge passage of **HB 128.**

Evan Barrett, Montana Economic Developers Association, said his organization supports **HB 128** as a logical extension and completion of the deregulation process of telecommunications. From the perspective of his economic development, this is about investment in infrastructure. Montana needs to be in a competitive situation in terms of infrastructure investment on the part of telecommunications companies. **Mr. Barrett** said this is a revenue neutral bill, it provides for visible taxes, and they feel that it is an important mechanism to ensure that Montana is a favorable place for investment in telecommunications infrastructure which is a necessary prerequisite to having the kind of services needed to be competitive in the future.

John Fitzpatrick, Touch America, said that they support **HB 128,** but they do disagree with the amendment brought by MTA. They believe that the taxpayers benefit from seeing the taxes they are paying and they should have that right on their telecommunications bill as well.

Gloria Paladichuk, City of Glendive and Richland Economic Development, said she represents an area which is the only co-op in the state that is opposing this bill. She said she believes there needs to be a change in the reimbursement. She believes the bill should be fair to all parties, co-ops and US West or any other telecommunications companies coming into the area. She said competition is needed in eastern Montana and she believes **HB 128** would be good for eastern Montana. She said one of the reasons that Mid Rivers is opposing this bill is because they do not want to pass it on to their customers.

Opponents' Testimony: None

Informational Testimony:

Mary Bryson, Director, Department of Revenue, asked that the committee consider some amendments offered by the Department. She said **HB 128** does revise the taxation of telecommunications providers, and since the Department will be responsible for administering this new tax, they believe it might be appropriate to provide a little more definition about what would be included within the tax and upon what services the tax would be imposed. Amendments 1 and 2 address that. Amendment 3 is a coordination instruction that would bring all reimbursement mechanisms that are being considered by the legislature into one single reimbursement mechanism that might be considered in that legislation.

Questions from Committee Members and Responses:

SEN. DEPRATU asked what US West's position is on burying the tax costs rather than having it listed on the bill. **Ms. Ranf** said that businesses do not absorb taxes, they merely pass them on to their customers, and they are hidden. She said consumers benefit from knowing what their taxes are. It is part of open government and it is the company's responsibility to tell people that they are paying those taxes; therefore, it should be a line item on the bills.

SEN. DEPRATU asked if there was another Fiscal Note other than the one that has been provided, and **Jerry Leonard, Department of Revenue**, said that a revised Fiscal Note had been sent to the budget office, and it may be a few days before it comes out.

CHAIRMAN DEVLIN asked **REP. GILLAN** if she would like to comment on the Fiscal Note. **REP. GILLAN** said that it appears that an assumption was made that 3.75% excise tax could be levied on the total volume of calls; however, included in that volume of calls were federal calls, and there is question whether those calls can be subject to an excise tax. She said there is a revised Fiscal Note which now shows a deficit, and we need to find out what percentage they are calculating for the federal calls. She said it was not the intention of this bill to raise excess revenue nor to cause a black hole, so she asked the committee's patience while this information is verified.

CHAIRMAN DEVLIN asked the Department if their amendments would change the Fiscal Note, and **Ms. Bryson** said they will not. She said these amendments merely provide clarification.

SEN. ELLIS asked, when co-ops compete with investor owned utilities, whether they pay comparable property taxes in those

service areas. **Mr. Strand** said his companies have chosen not to compete with those companies. He said where they are competing, they have decided to create separate subsidiary rates that are taxed like other telecommunications businesses. If that position should be changed and one of their cooperatives chooses to compete in one of these areas, they would still pay the 3% property tax but they would collect the same excise tax as the other company.

SEN. ELLIS asked **Mr. Strand** to address the amendments presented by **Mr. Feiss**, and **Mr. Strand** said his organization does not support the amendment for absorbing the tax. He said they would rather see openness on both sides.

SEN. ELLIS asked **REP. GILLAN** to address that amendment. **REP. GILLAN** said this amendment was discussed during the House Taxation Committee hearing on the bill. She said she thinks that the feeling is that in other bills that have been passed unbundling and delineating what the taxation is has been stressed, and for the sake of all customers in Montana, she would suggest that this amendment be resisted.

CHAIRMAN DEVLIN asked **Mr. Strand** if he did not like the amendments, and **Mr. Strand** said they do not support the absorption-of-the-tax amendment, but did not see any particular problems with the Department's amendments, which simply clarify the definition of services.

SEN. ECK said that it had been mentioned that this bill is really about investment, and she wondered if Montana was keeping up with the latest technologies. **Ms. Ranf** said she could only speak to US West's investment in Montana, but US West is all digital at this point. US West invests about $1 million a week in Montana to upgrade and maintain that network. She said Montana's tax structure is the highest in the country, and that makes it more difficult to make those investments.

SEN. ECK asked if someone else could address Montana's digital status across the state, and **Mr. Feiss** said his companies also invest about $50 million a year in Montana. He said his companies are all digital, also, and he felt that the infrastructure in Montana is as good as other states. They are looking at ways to provide affordable access to the highest speed pipes going through the state.

SEN. ECK asked what the vision of the Department was, as far as this bill is concerned, in making the counties whole. **Ms. Bryson** said the Department is trying to use the same mechanism, the same methodology as far as a formula for distribution, and it could be

that the revenue that is generated from this telecommunications excise tax will be distributed in the same manner as any revenue that is generated. Primarily it addresses a dollar-for-dollar reimbursement to counties and cities and towns, and then restructures the school funding. A committee bill is being worked on in House Taxation which would accomplish that.

SEN. ELLINGSON said that there will probably be a percentage of Montanans who use satellite systems, and he wondered how an excise tax would be collected on telephone calls made through a satellite company that has no tangible presence in Montana. **Ms. Bryson** said the ability of whether the state can exert jurisdiction over those companies is a question that would have to be resolved because they don't have a physical presence. She said other states have dealt with that in the sales tax arena, and this is essentially a form of a sales tax.

CHAIRMAN DEVLIN asked what nexus stands for, and **Ms. Bryson** said it is a word that refers to a connection between entities.

SEN. ELLINGSON said that in the sales tax arena, this situation had been a problem, and so it could be a potential problem in regard to the excise tax, and **Ms. Bryson** said that was correct.

SEN. ELLINGSON referred to the handout provided by **Ms. Ranf**, and he said he understood that the concept was to be revenue neutral, which means the same amount of tax dollars spread over the same number of customers, so the average tax per customer should be the same. **Ms. Ranf** said that was correct, and in fact, probably goes beyond that in that resellers would be collecting that tax also. They are companies who own no property so they pay no property taxes, and they buy at wholesale services and then sell them at retail. The excise tax would apply to them also, so the tax should be spread a little thinner.

SEN. ELLINGSON said, then, that the tax is being spread over a broader base of users, and he wondered if that was the reason for the difference for the average residential customer and the average small business customer. **Ms. Ranf** said that is correct, the intent is to try to keep them whole, so their costs will be about the same for services.

SEN. ELLINGSON asked if the tax would be going up on these resellers from what it is presently, and **Ms. Ranf** said that in some regards it will. She said that most of those resellers are supposed to be paying the telephone license tax, but that it would go up somewhat for those who do not pay property tax.

SEN. STANG said that the handout indicates that because of the reduction in property tax, the Public Service Commission will probably reduce rates, and he wondered if the companies would be willing to insert some language that their rates would be reduced commensurate with the reduction in property tax even if the Public Service Commission did not reduce rates. **Ms. Ranf** said they would have no problem with that.

SEN. STANG said it was indicated by the proponents that the Public Service Commission would lower the rates because of the reduction in property taxes, and he wondered if the Public Service Commission thought it was necessary to put language into the bill to do that, or will the Public Service Commission automatically lower the rates. **Eric Eck, Public Service Commission,** said that it would not harm anything to put language in the bill to say that it was the intent of the legislature that that be done by the Commission.

SEN. STANG asked if it would happen anyway, and **Mr. Eck** said that US West had testified that they would do that, and he felt it would be incumbent on any company that had the old tax rates in their current cost of service to come before the Commission and reflect that change.

CHAIRMAN DEVLIN asked how the property tax is determined on a co-op that goes into an investor owned utility area, what part of their equipment is at each rate. **Ms. Bryson** said that **Gene Walborn** would be the one to answer that, and he is in a meeting in House Tax. She said her understanding is that the company would be valued as a co-op and then a portion of it would be allocated as to what their services are and the amount of services divided between the areas. **CHAIRMAN DEVLIN** asked if that would be income based or people based, and **Ms. Bryson** said she was not sure. **CHAIRMAN DEVLIN** said he would like that information, and **Ms. Bryson** said she would let him know later.

SEN. ECK said it had been mentioned that one of the problems with the Fiscal Note was that a tax was being imposed on the feds somehow, and she asked for an explanation. **Ms. Bryson** said that federal statute is very clear in that if the incidence of the tax is upon the consumer, then federal government is not subject to the tax. If the incidence of the tax is on the business or the seller of those services, the tax can be collected because their taxes are passed through and would, then, be collected from the federal government. **SEN. ECK** asked if the excise tax is on the consumer, and **Ms. Bryson** said the statute is very clear that the incidence of the tax is on the consumer. **SEN. ECK** asked if the amendment that would allow that excise tax to be hidden would

make it possible to collect it from the feds, and **Ms. Bryson** said she believed that since it is still on the consumer, it could not be collected from the federal government.

CHAIRMAN DEVLIN asked **Gene Walborn, Department of Revenue,** the question regarding co-ops operating in an investor owned utility area and how it is determined what part of their property tax is 6% and what part is 3%. **Mr. Walborn** said that this is very similar to provisions that were put into place for **SB 390** for the electric co-ops. If they compete directly, the Department has the ability to tax them at class nine rates or 12%. The co-ops report where their property is by levy district so the Department can tell what property is competing with the IOU or US West and the value is allocated based upon the property location. **CHAIRMAN DEVLIN** asked what would happen if both were in the same taxing jurisdiction, and **REP. GILLAN** said that if a co-op goes into an incumbent area, their property tax status does not change, but they would have to levy the excise tax.

Closing by Sponsor:

REP. GILLAN said that in many respects this bill is very simple, and in others it is very complicated. She said she would resist the amendment that allows the tax to be hidden. She said she had a concern about the language in the Department's amendments which mentioned "ancillary." She said that needs to be checked carefully because the bill is specific as to which types of two-way communications would be subject to this excise tax. She said also that internet is not included because of the federal situation, and neither are telephone calling cards.

REP. GILLAN said she did not want telephone customers to be subsidizing other taxes with the excise tax, so she has some reservations about any kind of collective reimbursement mechanism. As far as the satellite concerns mentioned, **Ms. Ranf** had told her that if a telephone call originates or terminates in Montana and is billed in Montana, there is no problem with levying an excise tax. She said she would provide the committee some of the fiscal information that was used on the House floor which should make it easier to compare the new Fiscal Note which does include the federal government and addresses the 4Rs Act which was not addressed in the original Fiscal Note.

DISCUSSION ON SB 92 AND SB 424

CHAIRMAN DEVLIN appointed a subcommittee on **SB 92** and **SB 424,** which are both circuit-breaker bills. The subcommittee will be chaired by **SEN. ELLIS,** with **SEN. EKEGREN** and **SEN. ECK.**

DISCUSSION ON HB 248

CHAIRMAN DEVLIN said he would like **SEN. STANG** to do some research on **HB 248** regarding what the ramifications might be on the Bonneville Power situation. He said he was concerned that there may be a problem there and the committee needs to know for sure.

DISCUSSION ON SB 184

CHAIRMAN DEVLIN said that he had some amendments to put on **SB 184** which would then make it possible to get a revised Fiscal Note.

Mr. Heiman distributed copies of the amendments, **EXHIBIT(tas62a06)**, and explained that these amendments are aimed at **SB 195**. He said they were requested by **SEN. ELLIS** and drafted in conjunction with **Greg Petesch**.

SEN. ELLIS said that these amendments phase in the new values on property tax over four years, which will make a total of six years because we are already two years into it, and they go down to 3.46% for class four property. He said the purpose was to benefit homeowners without too much shifting. He said they limit ag benefits and make the homestead exemptions bigger. It has a 30% homestead exemption and a 13% comstead exemption, which is also phased in. The homestead exemption would be 15% the first year, 20% the next year, 25% the next year, and 30% the next year; the comstead will be roughly 6.5% and phased in right on into 13%. He said this gives about the same cost to the bill every year as far as the General Fund, and the cost is about equivalent to **HB 108** as it came to the Senate.

SEN. ELLIS said there are further amendments to make for the next reappraisal cycle. He said a reappraisal will take place in 2003, but that will be phased in over the next six years. It sets up a six-year reappraisal cycle.

SEN. STAND asked how timber property is handled in this bill, and **SEN. ELLIS** said this also reduces the multiplier for timber property to .35%, and it is phased in also.

Motion: **SEN. ELLIS MOVED SB018401.AGP, EXHIBIT(tas62a07).**

Discussion:

SEN. DEPRATU asked if this makes the timber multiplier revenue neutral, and **SEN. ELLIS** said it was. He provided a handout which explained the changes and impacts, **EXHIBIT(tas62a08)**.

SEN. ECK asked what happens to "other" class four, which is vacant land, and **SEN. ELLIS** said it does not have an exemption. It just receives the reduction in the multiplier, which is phased in. **SEN. ECK** asked if this makes it revenue neutral, and **SEN. ELLIS** said they put in the same type of costs for the homestead and comstead exemptions as were in **HB 108**, except this bill preserves **SB 195** so that there is not a shock to these people who have to accept the new values. Instead of all in one year, it will come on over four years.

CHAIRMAN DEVLIN said that the purpose of this is to get a revised Fiscal Note. **SEN. ELLIS** said he thought the committee could expect the new Fiscal Note the first part of next week.

SEN. ELLINGSON asked what the rationale was behind phasing in the exemptions as you phase in the increase in property tax, and how it benefits residential property owners over simply putting in the entire exemption right away and putting in the new values right away. **SEN. ELLIS** said because the new value is phased in, it keeps the cost of the bill to the General Fund fairly constant throughout the four-year period. He said this does not result in as big a shift within class four to those people who saw the increases.

Vote: Motion carried 8-1 with Ellingson voting no.

EXECUTIVE ACTION ON SB 529

Motion: SEN. STANG MOVED THAT SB 529 DO PASS.

Discussion:

SEN. GLASER said it is a wonderful concept, but it certainly modifies the way the legislature deals with giving schools less money if they have fewer children, and it would prevent the committee doing anything for the oil and gas bill heard yesterday.

SEN. STANG said he did not think it would prevent the passage of the oil and gas bill heard yesterday, but it would make sure that the legislature assured that the counties that were affected by that bill were kept whole. He said he did not think it would change the way education is funded because it is a tax change, and the way education is funded is not changed. He said it would make the legislature do business differently, and that is what the people wanted with **CI-75**.

CHAIRMAN DEVLIN said that it would not be the same as **CI-75** because with that, before anything could be raised, there had to

be a vote, and this just addresses the local taxing jurisdictions.

SEN. ELLIS said he had not decided how to vote on this. He said even though it has a lot of appeal, it creates a lot of problems. He said this bill will cause the current inequities we have in our system to stay there.

SEN. GLASER said this really says, "The legislature is prohibited from causing loss of income to a school district," not to a child, but to a school district, so the legislature loses the ability under this bill to reduce the amount of state revenue that goes to a school if the number of children go down, as long as the number of school districts stay the same. He said he does not think a government can be run in that fashion.

CHAIRMAN DEVLIN asked, then, about a school district with a decrease in enrollment and which would currently see a reduction in state aid, and whether this bill would prohibit that. **SEN. STANG** said that the only way that would be prohibited is if the legislature changes a tax and the way the tax is administered. It says, "State prohibited from tax changes which result in local revenue loss or increased tax burden." It does not say anything about school funding.

SEN. ELLIS said he thought **SEN. STANG** would agree that it would have prevented the passage of **HB 667** and the equalization of schools, and **SEN. STANG** said that was correct, and it should have. He said that is why the citizens of Montana are angry, because property taxes across the state were shifted. **SEN. ELLIS** said you can't do both, when the Constitution says equalize and then it says you can't. **SEN. STANG** said that that might have meant that the legislature would have been here another 20 days trying to figure out a way to deal with that through the income tax system or some other system rather than to change the property tax system to do that, and revenue that was lost would have to have been backfilled. He said this bill basically says that we need to change the way we do business. It says that if we do bills like **SB 85** and **HB 174**, we need to look at the consequences and see that those entities are made whole.

SEN. EKEGREN asked if this would lock the legislature into a situation where every time they dealt with a tax, they would have to deal with this. **SEN. STANG** said that what has happened in the last 10 or 15 years is the legislature has given "tax breaks," and this just says that if a shift occurs, the legislature needs to make sure that those who are affected by the shift are made whole so that the tax is not shifted to another taxpayer. **SEN. EKEGREN** then asked what happens if there is a situation where the

state wants to lower monies provided to local governments, and **SEN. STANG** said that as long as it is a tax policy that makes a tax shift and the income is reduced, he felt it could be done. He said the legislature cannot create a tax shift that creates a hole for those people. **SEN. EKEGREN** asked if this would have an effect on **SB 260** or legislation of that nature with this locked into the Constitution. **SEN. STANG** said that **SB 260** does a good job of looking out for local governments and schools. This bill just says that in this case, local governments must be kept whole.

SEN. ECK reminded the committee of the bill in the last legislature regarding mandating to local governments. She said the good thing about this legislation is that it would create a very good dialog regarding the relationship between state and local taxation and finance.

SEN. ELLIS said he felt that the intention of this legislation is very good, but it is too limiting.

CHAIRMAN DEVLIN asked if this was just a political statement since no Republicans signed this bill. **SEN. STANG** said he did not know that it was, but he felt that all it does is say that if the state is going to shift tax mandates to local governments, it has to be funded. He said it is time to educate the public on the fact that if someone gets a tax break, someone else has to make it up.

SEN. EKEGREN said he did not see anything about "mandate," it just specifies a tax change. If the legislature does anything in the way of tax policy that affects local government, it has to be assured that the local governments are backfilled. **SEN. STANG** said it may not have the word "mandate" in it, but the law demands that school districts provide a certain level of education and if the funding for that is taken away, it forces a raise at the local level. If the legislature tells local governments and schools that they have to Constitutionally provide funding, it gives them the assurance that that will happen. **SEN. EKEGREN** said he would vote to get this out of committee so it could be debated on the floor, but he did not think it could get the two-thirds vote necessary.

SEN. BOHLINGER said he felt the language is very appealing, but he also felt that there have been instances where the legislature needed flexibility to take action and this may very well close the door on that kind of flexibility. He said he would not support this measure.

SEN. ELLINGSON reminded the committee that in MCA 1-2-114 there is a restriction that the legislature cannot introduce new laws which would require a local government to do a certain activity or that requires them to make a direct expenditure of additional funds without a specific means to fund the activity. He said he feels this proposed legislation is completely complimentary to that which is already on the books.

Secondly, **SEN. ELLINGSON** said **SEN. ELLIS** had offered the opinion that this is likely to breed resentment, and he agreed that there may be some resentment as a result of this, but he felt that it would also deal with a lot of resentment that is existing right now which is a result of the legislature's tax policies over the last 10 to 15 years that have shifted taxes to the local governments while at the state level taxes have been cut on various categories of taxpayers. He said he would vote in favor of this bill.

SEN. DEPRATU said he had agonized over this bill for several days, but he is not convinced that this is the right thing to do at the right time. He said because he cannot see into the future, he is not sure the legislature can always keep local governments whole. There are times when people are not only telling the legislature to control taxes on the state level, but they want taxes lowered at a local level, too. People are going to have to make the decision of whether they want particular services or not.

A discussion ensued as to whether a Constitutional amendment could be tabled, and it was decided that it could because there were mechanisms available to bring it out of committee if desired.

Substitute Motion/Vote: **SEN. DEPRATU MADE A SUBSTITUTE MOTION THAT SB 529 BE TABLED. Substitute motion carried 5-4, with Eck, Ekegren, Ellingson and Stang voting no** (Roll call vote #1).

FURTHER DISCUSSION ON SB 184

SEN. ELLIS said he had new figures on **SB 184** and he wanted to make a substitute motion on the amendment. He said new figures that the Department of Revenue had just provided, in order to keep the cost even, changed the 15%, 20%, 25% and 30%, to 16%, 21%, 26% and 30%. In other words, it loaded one more percent on all those first three percentages.

Motion: **SEN. ELLIS MOVED A CONCEPTUAL AMENDMENT TO KEEP THE COST OF THE BILL EQUAL THROUGH THE YEARS AND TO INSERT THE NEW FIGURES**

OF 16%, 21%, 26% AND 30% INTO THE AMENDMENT AS THE PHASE-IN NUMBERS FOR THE HOMESTEAD PROVISION.

Discussion:

CHAIRMAN DEVLIN said that **SEN. ELLIS** had made a motion to amend the amendments, and **SEN. ELLIS** explained that this is just for the homestead provision, that the comstead provision is still being worked on.

Vote: **Motion carried 8-1 with Ellingson voting no.**

ADJOURNMENT

Adjournment: 10:06 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT(tas62aad)

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 1
BILL NO. HB 128

Montana's Property Taxation of Telecommunication Companies

Current System (range 3% to 12%)	Proposed - HB 128 (range 3% to 6%)
Class 5 - 3% real, personal & intangibles - 10 Telephone Cooperatives - 30 Electric Cooperatives *- Don't pay 1.8% Telephone License Tax*	**Class 5 - 3%** - 10 Telephone Cooperatives - 30 Electric Cooperatives - 4 Companies formerly under Class 7 ***- 4 companies formerly under Class 7 collect 3.75% excise tax. Cooperatives would collect excise tax only in areas they entered and compete with companies collecting tax.***
Class 7 - 8% real, personal & intangibles - includes 4 small privately owned companies *- Pay 1.8% Telephone License Tax*	**Class 7 - moved to Class 5 at 3%**
Class 8 - 6% on personal property **Class 4 - 3.82%** on real property - includes 1 small privately owned company, all cellular/wireless, Cable TV, paging, internet, and any resellers who have property in state. *- Most pay 1.8% Telephone License Tax*	**Class 8 - Class 4** - no change under this proposal. Other proposals to reduce or eliminate Class 8. *- Collect 3.75% Excise Tax*
Class 9 - 12% real, personal & intangible - includes 14 telecommunications companies. *- Pay 1.8% Telephone License Tax*	**Class 13 - 6%** - includes same 14 companies *- Collect 3.75% Excise Tax*

Prepared by U S WEST, February 1999

Class 5 - Telephone Cooperatives

- Blackfoot Telephone Cooperative
- Interbel Telephone Cooperative
- Mid Rivers Telephone Cooperative
- Nemont Telephone Cooperative
- Northern Telephone Cooperative
- Range Telephone Cooperative
- Reservation Telephone Cooperative
- Three Rivers Telephone Cooperative
- Triangle Telephone Cooperative
- West River Telephone Cooperative

Class 7 - Telephone Companies

- Hot Springs Telephone Company
- Lincoln Telephone Company
- Project Telephone Company
- Southern Montana Telephone

Class 4/Class 8 - Telecommunications Companies

- Ronan Telephone Company
- Cellular & Mobile Radio Companies (number unknown - 45 registered with PSC)
- Two-way Paging Companies (number unknown)
- Resellers (number unknown)
- Telephone Cooperative separate for-profit subsidiaries (number unknown)
- Cable TV companies (number unknown)

Class 9 - Telecommunications Companies

- AT&T
- Central Montana Telecommunications, Inc.
- Century
- Citizens Telecommunications
- Clark Fork Telecommunications
- MCI Telecommunications
- Nemont Communications
- Sprint Communications
- TCT West, Inc.
- TCI Microwave Inc.
- TRI Touch America
- Valley Telecommunications
- U S WEST
- Western Telecommunications Inc.

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 3
BILL NO. HB 128

Potential Time Line for Modification of U S WEST Rates - Property Tax Reduction

At this time, property taxes are an implicit part of our rate structure. If the property tax reduction is implemented U S WEST would reduce rates to remove the taxes from rates and that amount would be replaced by the excise tax on customer bills.

April 1999	Legislature passes property tax reduction for U S WEST and Governor signs bill
June 15,1999	U S WEST files proposal for rate reductions with PSC and requests expedited schedule to implement rate reduction on January 1, 2000 when the property tax reduction becomes effective. The proposal includes testimony and proposed new rates.
June 22, 1999	Montana PSC issues Notice of Filing and Opportunity for Comment - This allows interested parties to comment on the U S WEST proposal
July 2, 1999	Interested parties file comments and requests to intervene.
July 9, 1999	PSC staff meets with parties to develop a procedural schedule
July 23, 1999	Discovery due on U S WEST testimony and proposal from intervenors and PSC staff
August 6, 1999	U S WEST responses to discovery due
August 20, 1999	Intervenor testimony due
September 6, 1999	Discovery on Intervenor testimony due
September 20, 1999	Intervenor responses to discovery due
October 4, 1999	U S WEST rebuttal testimony due
October 19-22	PSC Hearing on U S WEST rate reduction
November 26	PSC Order on rate reduction
December 6	Motions on Reconsideration on Order
December 17	PSC Final Order
January 1, 2000	Implement

Prepared by U S WEST, March 1999

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 2
BILL NO. HB 128

U S WEST Montana Customers

Residential Customer

Average Bill Today Includes local service, features, in-state long distance	**$28.56**
Estimated Bill 3.75% excise tax - HB 128 Property and Telephone License Tax reductions removed from rate.	$26.81 - $27.31 + 3.75% excise tax **$27.81 - $28.33**

Small Business Customer

Average Bill Today Includes local service, features, in-state long distance	**$49.34**
Estimated Bill 3.75% excise tax - HB 128 Property and Telephone License Tax reductions removed from rate.	$45.34 - $45.84 + 3.75% excise tax **$47.04 - $47.56**

These are estimates of what consumer's bills may look like after tax reductions are removed from our rates. We will file our proposal to reduce rates to reflect these tax changes with the Montana Public Service Commission. The PSC will hold an open hearing on that proposal where other parties, telecommunications companies and consumers, can intervene and recommend other proposals to the PSC. The PSC will make the final decision as to which rates are reduced and by how much.

Prepared by U S WEST, February 1999

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 4
BILL NO. HB 128

AMENDMENTS TO HOUSE BILL NO. 128

Third Reading as Amended Copy

Section 5

1. Page 4, line 14.
   Following: "of tax"
   Strike: "-- no advertising to absorb or refund tax"

2. Page 4, line 15.
   Following "[sections 1 through 19]"
   Strike: "must"
   Insert: "may"

3. Page 4, line 17.
   Strike: subsection (2), lines 13 and 14 in their entirety.

CenturyTel Service Group, Inc.
Telephone Group - Montana Division
290 North Main
Kalispell, MT 59901
Tel 406 758 1000

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 5
BILL NO. HB128

CENTURYTEL

March 18, 1999

Members of the Senate Tax Committee
Montana State Senate
State Capitol
Helena, Montana 59820-1702

Senator Bob Depratu and Members of Senate Tax Committee,

We would appreciate your support for HB 128, that will be before your Tax Committee on Friday.

We feel HB 128 is a good piece of legislation which will be good for our telephone customers of Montana, communities we serve, CenturyTel and our industry. We support this bill for several reasons:
1. It represents a good balance between keeping telephone customers' total bill about the same, or slightly less, and keeping local government entities whole for their tax revenues;
2. It makes the various tax structures across our industry in Montana more completitvely neutral;
3. It simplifies the tax structure of the telecommunications industry to encourage more companies to want to compete for customers in this state.

We hope you'll support HB 128.

Sincerely,

Calvin Simshaw by

Calvin Simshaw
Legal Counsel, CenturyTel of Montana, Inc.

SENATE TAXATION
DATE 3/19/99
EXHIBIT NO. 6
BILL NO. HB 128

AMENDMENT

BILL#: HB 128
VERSION: Third Reading, as amended
PROPOSED BY DEPARTMENT OF REVENUE
DATE: March 17, 1999

REASON: HB 128 revises the taxation of telecommunications providers, imposing an excise tax to replace revenue lost from moving providers' property from class 9 to a new class 13 and revenue lost from repealing the telephone company license tax. The current definition of "retail telecommunications" may not encompass all services on which a tax is to be imposed.

AMENDMENT:

1. Page 3, line 11.
Following: "long-distance,"
Insert: "1-800-series and 1-900-series calling,"
Strike: "related"
Insert: "ancillary"

2. Page 3, line 12.
Following: "services"
Insert: including but not limited to operator and information services, directory assistance, call waiting, call forwarding, caller ID, call rejection, last call return, priority call, speed calling, three way calling, voice messaging, continuous redial, and line blocking.

3. Page 27, following line .
Insert: NEW SECTION. **Section 42. Coordination Instruction.** If [LC 1924] is passed and approved then the distribution of this tax shall be governed by [LC 1924].

Renumber: subsequent sections

MONTANA SENATE
1999 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE 3/19/99

NAME	PRESENT	ABSENT	EXCUSED
JOHN BOHLINGER	✓		
DOROTHY ECK	✓		
PETE EKEGREN	✓		
JON ELLINGSON	✓		
ALVIN ELLIS, JR.	✓		
BILL GLASER	✓		
SPOOK STANG	✓		
BOB DE PRATU, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

DATE 3/19/99

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 128

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tom Ebzery		~~HB 128~~ USWest	128	X	
Barbara Rank		USWest	HB128	✓	
John McNamara		AT&T	HB128	✓	
Dennis Burr		MONTAX	HB128	✓	
John Fitzpatrick		Touch America	HB128	X	
Evan Barrett		Mt Econ Dev Assn	128	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3/19/99

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 128

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Geoff Feiss	4424316	MT Telecom Assn	HJ 128	✓	
Mary Bryson	2460	DOR	HB 128	Information	
LANCE JAGE	801 553-0240	CITIZEN COM	HB 128	✓	
Mike Strand	443-1540	MCTA	HB128	✓	
Eugene Walborn	4-0908	DOR	HB128	Info.	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on April 7, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr.(R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 386, 3/29/1999; HB 569, 3/29/1999; HB 630, 3/29/1999; HB 654, 3/29/1999; HB 661, 4/1/1999
Executive Action: HB 630; HB 128

HEARING ON HB 630

Sponsor: REPRESENTATIVE JOHN "SAM" ROSE, HD 87, CHOTEAU

Proponents: Bob Turner, Department of Transportation

and that was the case, that would mean that person would lose that deduction for the year 1999. **Mr. Finch** said that was correct.

CHAIRMAN DEVLIN asked if that explained the fiscal impact on the Fiscal Note, and he wondered if that continued through the years. **Mr. Finch** said any fiscal impact that arises because of this bill will be a one-time situation.

SEN. GLASER asked whose $4 million is reflected on the Fiscal Note, and **Mr. Finch** said it is taxpayer money. He said the way there is a one-time hit from this bill is that there is a group of taxpayers who are systematically over-withholding for federal income tax purposes, and under current law, these taxpayers file their federal income tax return in the spring following the year for which they have that federal liability and get a refund. Current law for state purposes only allowed a person to deduct the amount withheld, not the amount paid, so a person can deduct an amount that is larger than the federal liability is. The next year that federal refund must be claimed as income on your state return. Under this proposal, you would still be required to take that amount from 1999 that was received as a refund and claim it as income; however, in 2000, because you can now only deduct your liability, there will be less money claimed as an itemized deduction, and that causes their liability to go up one time for that year.

SEN. STANG asked if the Department had considered the people who may have a large gain in the year before that are paying a substantial amount of federal income taxes that are not going to be able to deduct them in the next year because they are going to lose that deduction since they can only deduct the amount of tax that is current in that year. **Mr. Finch** said they had taken that into consideration.

SEN. GLASER asked about corporations, and **Mr. Finch** said that C corporations would not be affected by this, but S corporations would be because the tax flows through to the individual.

Closing by Sponsor:

REP. SCHMIDT said the benefits of this bill would be simplifying everything as to when you can take the deduction. This would create an ease of use by being able to deduct the federal tax liability and simplifies tax preparing. **SEN. ELLINGSON** said he would carry this bill.

EXECUTIVE ACTION ON HB 128

CHAIRMAN DEVLIN provided the committee a new Fiscal Note for **HB 128, EXHIBIT(tas75a20).**

Motion: SEN. STANG MOVED THAT HB 128 BE CONCURRED IN.

Discussion:

Mr. Heiman passed out amendment HB012802.alh, which is the contingent voidness provision.

Motion: SEN. ECK MOVED HB012802.ALH, EXHIBIT(tas75a21).

Discussion:

SEN. STANG asked if in reality these contingent voidness amendments become a moot issue and go away. **CHAIRMAN DEVLIN** reminded the committee that if these amendments are accepted, this bill would have to go back to the House. **SEN. STANG** said he would hate to see that happen. He asked if these amendments are really needed. **Mr. Heiman** said that when this was written, it was not expected that **CI-75** would come out before the session ended, so this involves an effective date hassle.

SEN. ECK WITHDREW HER MOTION.

Mr. Heiman said that at the time of the hearing, the Department of Revenue had proposed some amendments, HB012801.alh, **EXHIBIT(tas75a22)**, the Ronan amendments were recommended on the House floor, **EXHIBIT(tas75a23)**, and finally an amendment allowing absorption of the tax was recommended, **EXHIBIT(tas75a24).**

CHAIRMAN DEVLIN asked the Department of Revenue to explain their amendments. **Brian Smith, Department of Revenue**, said he could not explain them, but the Department analyst was on his way over and he would provide an explanation.

SEN. EKEGREN said he would like to hear from someone from the telecommunications industry about these amendments. **Barbara Ranf, US West**, said the industry believes that the amendments from the Department of Revenue are not necessary. She said the first amendment includes 800 and 900 calls, and these are clearly two-way transmissions and their inclusion is not necessary. The second amendment uses the word "ancillary," and the industry feels that that could be construed to include equipment not intended to be taxed in this bill. Finally, the last amendment is coordinating instruction, and there is a bill by **REP. STORY** that is a reimbursement bill which makes this instruction unnecessary.

Mr. Heiman said the Ronan amendment is the one that was made on the House floor which covers a small, private company in Ronan. This amendment cleans up that language on page 5, lines 8 through 11.

SEN. ECK said that she felt if this bill could be passed without amending it, it would be more advantageous than just clearing up language. It would not, then, be necessary to return the bill to the House.

SEN. STANG asked if someone could explain the amendment. **Mike Strand, Montana Telecommunications Systems,** said his understanding was that this clarifies the situation where, if Ronan wanted to compete in a cooperative service area, they would not have to collect the excise tax from the customers that they gained in that area. He said it clarifies the language, but he did not feel there was any problem with the language as it stands.

Mr. Heiman said the last amendment is the one which allows the tax to be absorbed by the company.

CHAIRMAN DEVLIN said **SEN. STANG** had moved the bill and there have been no motions on the amendments.

Gene Walborn, Department of Revenue, said that the amendments make sure that the bill did not limit the Department to technology that is in place today, and that if some new technology came about, they would be able to fit that into the definition. **CHAIRMAN DEVLIN** asked if this would allow them to pick up some existing things, too, and **Mr. Walborn** said that that could potentially occur.

SEN. ECK said that the question was related to striking "related" and putting in "ancillary," which might include a lot of equipment that should not be covered.

CHAIRMAN DEVLIN asked if the way the bill is written, it backfills local governments entirely. **REP. GILLAN** said that there is a bill coming which will be a reimbursement bill, and in the new Fiscal Note for this bill, there is a positive impact on the General Fund over Fiscal Year 2000 and 2001. She said local governments are comfortable with this bill.

CHAIRMAN DEVLIN asked if the new excise tax is not figured into any kind of a rate base, and he wondered if the reduction from 12% to 6% is figured in a rate base through the PSC. **REP. GILLAN** said that she had talked to the telecommunications people and

they have said they would file a change in their rate calculation before the PSC.

SEN. STANG said that was a question he had had, and the representative from the Public Service Commission had said that they would do that. It is the legislative intent of this bill that the PSC reduce the rate along with the tax reduction in this bill to consumers.

Mr. Walborn said that amendment concerning "ancillary" could probably be done without. The amendment "including but not limited to," is one that would help clarify for the Department on administrative rule and on the provisions of the law to be able to define what services are. The third amendment is coordination instruction for the reimbursement bill. He said without that he is not sure how local governments would be reimbursed.

SEN. STANG asked if the Department would feel comfortable making rules to include the things covered by the second amendment without having to put them in the bill, and **Mr. Walborn** said this helps clarify it and adds a little more meat to it. However, the Department can do it through administrative rules.

CHAIRMAN DEVLIN said there was no interest in amending this bill, so the committee needed to act on the bill in its present form.

Vote: **Motion carried 8-0. SEN. HARP** will carry this on the floor.

SENATE TAXATION
DATE 4/7/99
EXHIBIT NO. 23
BILL NO. HB128

Amendments to House Bill No. 128
3rd Reading Copy

Requested by Montana Telecommunications Association
Polishes up "Ronan" amendment

For the Senate Taxation Committee

Prepared by Lee Heiman
March 23, 1999 (10:43AM)

1. Page 5, line 8.
Following: "CARRIER"
Insert: ", as defined in 69-3-803,"

2. Page 5, line 9.
Strike: "A"
Insert: "an incumbent"

3. Page 5, line 11.
Following: "THE"
Insert: "incumbent"

- END -

SENATE TAXATION
DATE 4/7/99
EXHIBIT NO. 22
BILL NO. HB128

Amendments to House Bill No. 128
3rd Reading Copy

Requested by Department of Revenue

For the Senate Taxation Committee

Prepared by Lee Heiman
March 23, 1999 (10:44AM)

1. Page 3, line 11.
Following: "long-distance,"
Insert: "1-800-series and 1-900-series calling,"
Strike: "related"
Insert: "ancillary"

2. Page 3, line 12.
Following: "services"
Insert: ", including but not limited to operator and information services, directory assistance, call waiting, call forwarding, caller ID, call rejection, last call return, priority call, speed calling, three-way calling, voice messaging, continuous redial, and line blocking"

3. Page 27, line 2.
Insert: "NEW SECTION. **Section 42. Coordination instruction.** If [LC 1924] is passed and approved, then [section 20 of this act] is void and the distribution of the tax in [sections 1 through 19] must be governed by [LC 1924]."
Renumber: subsequent sections

- END -

SENATE TAXATION
DATE 4/7/99
EXHIBIT NO. 21
BILL NO. HB128

Amendments to House Bill No. 128
3rd Reading Copy

Technical Amendment

For the Senate Taxation Committee

Prepared by Lee Heiman
March 22, 1999 (8:53AM)

1. Page 27, line 3.
Strike: "subsections"
Insert: "subsection"
Strike: "and (3)"

2. Page 27, lines 5 and 6.
Strike: "(2)" on line 5 through "44(1)1." on line 6
Renumber: subsequent subsection

3. Page 27, line 13 through line 17.
Strike: section 44 in its entirety

- END -

SENATE TAXATION
DATE 4/7/99
EXHIBIT NO. 24
BILL NO. HB128

Amendments to House Bill No. 128
1st Reading Copy

For the Senate Taxation Committee

Prepared by Lee Heiman
March 23, 1999 (3:12PM)

1. Page 4, line 14.
Strike: "-- no advertising to absorb or refund tax"

2. Page 4, line 15.
Strike: "(1)"
Strike: "must"
Insert: "may"

3. Page 4, lines 17 and 18.
Strike: subsection (2) in its entirety

- END -

MONTANA SENATE
1999 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE 4/7/99

NAME	PRESENT	ABSENT	EXCUSED
JOHN BOHLINGER	✓		
DOROTHY ECK	✓		
PETE EKEGREN	✓		
JON ELLINGSON	✓		
ALVIN ELLIS, JR.	✓		
BILL GLASER	✓		
SPOOK STANG	✓		
BOB DE PRATU, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Taxation** report that **House Bill 128** (third reading copy -- blue) **be concurred in.**

Signed: *Sen Devlin*
Senator Gerry Devlin, Chair

To be carried by Senator John Harp

- END -

Committee Vote:
Yes 8, No 0.

751146SC.sjo

1999 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 128

INTRODUCED BY K. GILLAN, B. STORY, S. ANDERSON, B. DEPRATU, G. DEVLIN,

M. HALLIGAN, D. HARRINGTON, L. NELSON

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

AN ACT GENERALLY REVISING THE TAXATION OF TELECOMMUNICATIONS SERVICES PROVIDERS; IMPOSING A 3.75 PERCENT STATEWIDE RETAIL TELECOMMUNICATIONS EXCISE TAX TO REPLACE REVENUE LOST FROM MOVING TELECOMMUNICATIONS SERVICES PROVIDERS' PROPERTY FROM CLASS NINE TO A NEW PROPERTY TAX CLASS THIRTEEN AND FROM THE REPEAL OF THE TELEPHONE COMPANY LICENSE TAX; REQUIRING THAT RURAL TELEPHONE COOPERATIVES AND RURAL ELECTRIC COOPERATIVES OFFERING SERVICE IN AN AREA SERVED BY AN INCUMBENT LOCAL EXCHANGE PROVIDER COLLECT THE RETAIL TELECOMMUNICATIONS EXCISE TAX FROM CUSTOMERS IN THE INCUMBENT LOCAL EXCHANGE AREA; PROVIDING FOR THE DISTRIBUTION OF TAX REVENUE; PROVIDING THAT A PERCENTAGE OF THE RETAIL TELECOMMUNICATIONS EXCISE TAX BE USED TO REPLACE PROPERTY TAX REVENUE LOST FROM REDUCING THE TAX RATE ON TELECOMMUNICATIONS SERVICES PROVIDERS' PROPERTY FROM 12 PERCENT TO 6 PERCENT; TAXING TELECOMMUNICATIONS PROPERTY AT 6 PERCENT OF ITS MARKET VALUE; MOVING CLASS SEVEN TELECOMMUNICATIONS PROPERTY TO CLASS FIVE; CREATING A SEPARATE CLASS OF PROPERTY FOR CENTRALLY ASSESSED TELECOMMUNICATIONS PROPERTY; REVISING THE DEBT LIMITS OF TAXING JURISDICTIONS; AMENDING SECTIONS 7-1-2111, 7-7-107, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-14-2524, 7-14-2525, 7-16-2327, 7-16-4104, 15-1-501, 15-6-135, 15-6-137, 15-6-141, 17-7-502, 20-9-406, 35-18-503, AND 69-3-861, MCA; REPEALING SECTIONS 15-53-101, 15-53-102, 15-53-103, 15-53-104, 15-53-105, 15-53-106, 15-53-111, 15-53-112, 15-53-113, 15-53-114, 15-53-115, AND 69-3-860, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 19] may be cited as the "Retail Telecommunications Excise Tax Act".

Section 2. Legislative findings and declaration of purpose. (1) The legislature finds that one measure of the state's economic competitiveness is the presence of an efficient and affordable telecommunications infrastructure using the latest technological advancements.

(2) The legislature further finds that the telecommunications industry is undergoing a dramatic change that is altering the identity of its participants, the nature of services that the industry provides, and the methods used to deliver those services.

(3) The legislature further finds that the existing method of property taxation of the telecommunications industry results in competitive inequities that hinder the investment in the state's telecommunications infrastructure.

(4) The legislature further finds that the evolving nature of the telecommunications industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to telecommunications property and imposing a replacement tax in order to:

(a) avoid placing telecommunications services providers at a competitive advantage or disadvantage;

(b) provide purchasers of telecommunications services with greater choices and lower retail prices; and

(c) preserve the revenue base of the existing property tax system for taxing jurisdictions in the state.

(5) The legislature further finds that a reduction in property tax rates applied to telecommunications services providers should be replaced with an excise tax on the purchasers of telecommunications services.

(6) The legislature further finds that taxes imposed on the telecommunications industry are in reality hidden taxes that are passed on to telecommunications customers in the form of higher prices and that such a policy is contrary to the principles of open government and a fully informed citizenry on the tax policies of the state.

(7) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of telecommunications services providers and to impose a retail telecommunications excise tax measured by the price of retail telecommunications on the purchaser to ensure competitive neutrality and constancy of revenue to taxing jurisdictions in the state of Montana.

(8) The legislature further declares that to avoid additional competitive advantages or disadvantages, the telephone company license tax must be eliminated.

Section 3. Definitions. As used in [sections 1 through 19], unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is billed to a customer with a Montana service address. The term includes but is not limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

(3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by [sections 1 through 19];

(ii) charges added to a customer's bill under 10-4-201, 53-19-311, 69-3-844, and 69-3-860;

(iii) federal excise taxes or other federally imposed charges or fees;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for reconnection of service or for replacement of service or relocation of facilities;

(vii) the repair, inspection, or servicing of equipment located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(4) "Service address" means:

(a) the location from where the retail telecommunications services originated or where the retail telecommunications services are received; or

(b) where there is not a defined location, the location in Montana where the statement of charges for retail telecommunications services is mailed.

(5) "Telecommunications services provider" means a person providing retail telecommunications services.

Section 4. Imposition of retail telecommunications excise tax -- rate. An excise tax of 3.75% is imposed on the sales price of retail telecommunications services. The tax is imposed on the purchaser and must be collected by the telecommunications services provider.

Section 5. Separate statement of tax -- no advertising to absorb or refund tax. (1) The excise tax imposed by [sections 1 through 19] must be separately stated on the end-user customer's bill or statement.

(2) A telecommunications services provider may not advertise, hold out, or state to the public or to any customer that the tax imposed by [sections 1 through 19] will be absorbed or refunded.

Section 6. Multistate exemption. A customer, upon proof that the customer has paid a tax in another state on the consumption or use of retail telecommunications services, is allowed a credit against the tax imposed by [sections 1 through 19] if the tax has been paid to another state.

Section 7. Application for permission to report on accrual basis. (1) A telecommunications services provider may apply to the department for permission to report and pay the retail telecommunications excise tax on an accrual basis.

(2) The application must be made on a form, prescribed by the department, that contains information that the department may reasonably require.

(3) A telecommunications services provider may not report or pay the retail telecommunications excise tax on an accrual basis unless the telecommunications services provider has received written permission from the department.

Section 8. Rural telephone cooperatives and rural electric cooperatives -- subject to excise tax. (1) Rural telephone cooperatives or rural electric cooperatives providing retail telecommunications services in an area served by an incumbent local exchange carrier, as defined in 69-3-803, that is not a cooperative shall collect the retail telecommunications excise tax imposed by [sections 1 through 19] from customers in the incumbent local exchange carrier's service area.

(2) An incumbent local exchange carrier that is not a cooperative providing retail telecommunications services in an area served by a rural telephone cooperative is not required to collect the retail telecommunications excise tax imposed by [sections 1 through 19] from customers in the rural telephone cooperative service area.

Section 9. Return required of telecommunications services providers. (1) A return, on a form approved by the department, and payment of the tax for the preceding calendar quarter must be filed with the department on or before 60 days after the end of each calendar quarter in which the tax imposed

by [sections 1 through 19] is payable. Each telecommunications services provider engaged in providing retail telecommunications services in this state that is subject to tax under [sections 1 through 19] shall file a return.

(2) Each telecommunications services provider liable to collect the tax under [sections 1 through 19] shall keep a record, on a form approved by the department, of all revenue received from providing retail telecommunications services for each quarter.

(3) The department may grant a reasonable extension of time for filing the return upon good cause shown.

Section 10. Credit for taxes paid on worthless account -- taxes paid if account collected. (1) The retail telecommunications excise taxes paid on an accrual basis by a telecommunications services provider filing a return under [section 9] on sales found to be worthless and actually deducted by the person as bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) If the accounts are subsequently collected, the retail telecommunications excise tax must be paid on the amount collected.

Section 11. Deficiency assessment -- review -- interest -- penalty. (1) If the department determines that the amount of tax due is greater than the amount reported, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek a review of the determination pursuant to 15-1-211.

(2) (a) Interest on any deficiency must bear interest until paid at a rate of 1% a month or fraction of a month, computed from the original due date of the return.

(b) If payment is not made within 60 days, the tax is delinquent and a penalty of 10% must be added to the amount of the deficiency.

Section 12. Credit for overpayment -- interest on overpayment. (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of overpayment must be credited against any tax, penalty, or interest then due from the taxpayer, with the balance being refunded to the taxpayer or its successor through reorganization, merger, consolidation, or its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on deficiency assessments under [section 11] due from the date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves crediting or refunding the payment.

(3) (a) Interest may not accrue during any period of processing a claim for a refund delayed more than 30 days by reason of failure of the taxpayer to provide information requested by the department for the purposes of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is credited or refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever date is later; or

(ii) if the amount of interest is less than $1.

Section 13. Penalty and interest for delinquency -- waiver. (1) Taxes due under [sections 1 through 19] become delinquent if not paid within 60 days after the end of each calendar quarter. The department shall add to the amount of all delinquent retail telecommunications excise taxes a penalty of 10% of the excise tax due plus interest at the rate of 1% a month or fraction of a month, computed from the date on which the tax becomes delinquent to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure to file the return, as required by [section 9], or to pay the tax due is provided to the department.

Section 14. Estimation of tax upon failure to file return -- notice. (1) If a telecommunications services provider fails, neglects, or refuses to file the return required by [section 9] within the time required or fails to pay the tax required by [sections 1 through 19] within the period provided for in [section 9], the department shall estimate the amount of revenue of the telecommunications services provider subject to tax under [sections 1 through 19] during the preceding quarter.

(2) The department shall compute the amount of excise tax due from the telecommunications services provider and mail to the telecommunications services provider a letter and tax assessment statement setting forth the amount of delinquent excise tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

Section 15. Warrant for distraint. If all or part of the tax imposed by [sections 1 through 19] is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand filed after the department files the warrant for distraint.

Section 16. Statute of limitations. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless a notice of additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last day. If the taxpayer, before the expiration of the period prescribed for the assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the

overpayment, whichever period expires later, unless before the expiration of the period, the taxpayer files a claim for refund or the department has determined the existence of the overpayment and has approved the refund or credit of the overpayment. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a refund or credit allowed if a claim is not filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If the return is required and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

Section 17. Administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 1 through 19];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 19]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 19].

Section 18. Distribution of retail telecommunications excise tax revenue. Retail telecommunications excise tax revenue collected by the department must be distributed as follows:

(1) 75% of the amount collected must be deposited in the account established in [section 19]; and

(2) the remaining 25% of the amount collected must be deposited in the state general fund.

Section 19. Retail telecommunications excise tax -- account. (1) There is within the state special revenue fund an account for the receipts of retail telecommunications excise tax revenue.

(2) There must be retained in the account the amounts necessary under [sections 1 through 19] to repay overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in amount, and pay any other refunds otherwise required.

Section 20. Distribution of property tax replacement revenue -- statutory appropriation. (1) Tax revenue deposited in the account established in [section 19] must be distributed as provided in this section.

(2) On or before January 1, 2000, the department shall determine a reimbursement ratio associated with reducing the tax rate on the property of telecommunications companies taxed under 15-6-141, as

that section read on December 31, 1998, and provide that information to each county treasurer. The reimbursement ratio must be determined for each taxing jurisdiction that levied mills on the taxable value of the property of telecommunications companies as that property was taxed under 15-6-141 in tax year 1998.

(3) The reimbursement ratio for each taxing jurisdiction to be used as the basis for the reimbursement amount is calculated using the formula RR = (((TV1 x ML1) + (TV2 x ML2) + (TV3 x ML3))/3)/(ST1 + ST2 + ST3)/3, where:

(a) RR is the reimbursement ratio;

(b) TV1 is the tax year 1996 taxable value of telecommunications property in the taxing jurisdiction, and ML1 is the tax year 1996 mill levy in the taxing jurisdiction applied to telecommunications property;

(c) TV2 is the tax year 1997 taxable value of telecommunications property in the taxing jurisdiction, and ML2 is the tax year 1997 mill levy in the taxing jurisdiction applied to telecommunications property;

(d) TV3 is the tax year 1998 taxable value of telecommunications property in the taxing jurisdiction, and ML3 is the tax year 1998 mill levy in the taxing jurisdiction applied to the telecommunications property;

(e) ST1 is the sum of (TV1 x ML1) for all taxing jurisdictions in the state for tax year 1996;

(f) ST2 is the sum of (TV2 x ML2) for all taxing jurisdictions in the state for tax year 1997;

(g) ST3 is the sum of (TV3 x ML3) for all taxing jurisdictions in the state for tax year 1998.

(4) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under [sections 1 through 19]. Within 90 days after the close of the calendar quarter, the department shall remit to each county treasurer the reimbursement amount calculated in this subsection (4). The reimbursement amount for each taxing jurisdiction in the state is the product of multiplying the reimbursement ratio determined for the taxing jurisdiction in subsection (3) by the amount available in the account established in [section 19] for redistribution for the calendar quarter.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement as calculated by the department to each taxing jurisdiction.

(6) For the purposes of this section, "taxing jurisdiction" means a jurisdiction levying mills against telecommunications property described in 15-6-141, as that section read on December 31, 1998, and includes but is not limited to a county, city, school district, tax increment financing district, special district, or miscellaneous taxing district and the state of Montana.

(7) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the amount that would otherwise have to be raised by the mill levy.

(8) A local government taxing jurisdiction that ceases to exist after [the effective date of this section]

will no longer be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created after January 1, 2000, will not be considered for revenue loss or reimbursement purposes. If a local government taxing jurisdiction that existed prior to January 2000 is split between two or more taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions.

(9) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the account established in [section 19] to reimburse eligible taxing jurisdictions for the reduction in the tax rate on telecommunications property classified under 15-6-141 prior to [the effective date of this section].

Section 21. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504, as follows:

(a) first class--all counties having a taxable valuation of $50 million or more;

(b) second class--all counties having a taxable valuation of $30 million or more and less than $50 million;

(c) third class--all counties having a taxable valuation of $20 million or more and less than $30 million;

(d) fourth class--all counties having a taxable valuation of $15 million or more and less than $20 million;

(e) fifth class--all counties having a taxable valuation of $10 million or more and less than $15 million;

(f) sixth class--all counties having a taxable valuation of $5 million or more and less than $10 million;

(g) seventh class--all counties having a taxable valuation of less than $5 million.

(2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county as of the time of determination plus:

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

(c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under 15-36-324(13); ~~and~~

(f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141; and

~~(f)~~(g) 6% of the taxable value of the county on January 1 of each tax year."

Section 22. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, ~~no~~ a city-county consolidated local government may not issue bonds for any purpose ~~which~~ that, with all outstanding indebtedness, ~~may exceed~~ exceed 39% of the taxable value of the property ~~therein~~ in the local government subject to taxation, as ascertained by the last assessment for state and county taxes, plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the local government for tax year 1999, multiplied by 39%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 23. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) A county may not become indebted in any manner or for any purpose in an amount, including existing indebtedness, in the aggregate exceeding 23% of the total of the taxable value of the property in the county subject to taxation; plus:

(a) the value provided by the department of revenue in 15-36-324(13), as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness~~, plus:~~;

(b) ~~for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and~~ for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the county for tax year 1995, ~~in each case of class eight property,~~ multiplied by 23%; and

(c) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 23%.

(2) A county may not incur indebtedness or liability for any single purpose to an amount exceeding

$500,000 without the approval of a majority of the electors of the county voting at an election to be provided by law, except as provided in 7-7-2402, 7-21-3413, and 7-21-3414.

(3) This section does not apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

Section 24. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) ~~through (4)~~ and (3), a county may not issue general obligation bonds for any purpose that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county~~;~~ plus:

(a) the value provided by the department of revenue under 15-36-324(13), to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds~~, plus,~~;

~~(b) for general obligation bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for general obligation bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and~~ for general obligation bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the county for tax year 1995, ~~in each case of class eight property,~~ multiplied by 11.25%; and

(c) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

~~(2) In addition to the bonds allowed by subsection (1), a county may issue bonds that, with all outstanding bonds and warrants, will not exceed 27.75% of the total of the taxable value of the property in the county subject to taxation, plus the value provided by the department of revenue under 15-36-324 (13), when necessary to do so, to be ascertained by the last assessment for state and county taxes, plus, for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, and for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995.~~

~~(3)~~(2) In addition to the bonds allowed by ~~subsections~~ subsection (1) ~~and (2)~~, a county may issue bonds for the construction or improvement of a ~~jail~~ detention center that will not exceed 12.5% of the taxable value of the property in the county subject to taxation, plus the adjustments permitted by ~~7-7-2101~~ subsection (1).

~~(4)~~(3) The limitation in subsection (1) does not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932, or to bonds issued for the repayment of tax protests lost by the county."

Section 25. Section 7-7-4201, MCA, is amended to read:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, a

city or town may not issue bonds or incur other indebtedness for any purpose in an amount that with all outstanding and unpaid indebtedness will exceed 28% of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus:

(a) ~~for bonds to be issued or other indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for bonds to be issued or other indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and~~ for bonds to be issued or other indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, ~~in each case of class eight property,~~ multiplied by 28%; and

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the city or town for tax year 1999, multiplied by 28%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness.

(3) The limitation in subsection (1) does not apply to bonds issued for the repayment of tax protests lost by the city or town."

Section 26. Section 7-7-4202, MCA, is amended to read:

"7-7-4202. Special provisions relating to water and sewer systems. (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town that owns and controls the water supply and water system and devotes the revenue from the water supply and water system to the payment of the debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both of the purposes, including all indebtedness that is contracted and that is unpaid or outstanding, may not in the aggregate exceed 55% ~~over and above~~ of the ~~28%,~~ debt limitation referred to in 7-7-4201; of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus:

(a) ~~for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and~~ for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, ~~in each case of class eight property,~~ multiplied by 55%; and

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the city or town for tax year 1999, multiplied by 55%."

Section 27. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided in 7-7-2203, 7-7-2204, and this section, a county may not issue bonds that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county; plus:

(a) the value provided by the department of revenue under 15-36-324(13). The taxable property and the amount of taxes levied on new production, production from horizontally completed wells, and incremental production must be ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(b) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

(2) A county may issue bonds that, with all outstanding bonds and warrants, will exceed 11.25% but will not exceed 22.5% of the total of the taxable value of the property; plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the county for tax year 1999, multiplied by the amount that exceeds 11.25% but does not exceed 22.5%, plus the value provided by the department of revenue under 15-36-324(13) when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways that have been destroyed or damaged by an act of God or by a disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county may not exceed 22.5% of the total of the taxable value of the property within the county, ~~plus the value provided by the department of revenue under 15-36-324(13), as ascertained by the last preceding general assessment~~ as adjusted in this section."

Section 28. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds 22.5% of the total of the taxable value of the property in the county, ~~plus the value provided by the department of revenue under 15-36-324(13)~~ as adjusted in 7-14-2524, and the board determines that the county is unable to pay the indebtedness in full, the board may:

(a) negotiate with the bondholders for an agreement under which the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest in satisfaction of the bonds;

(b) enter into the agreement;

(c) issue refunding bonds for the amount agreed upon.

(2) These bonds may be issued in more than one series, and each series may be either amortization or serial bonds.

(3) The plan agreed upon between the board and the bondholders must be embodied in full in the resolution providing for the issuance of the bonds."

Section 29. Section 7-16-2327, MCA, is amended to read:

"7-16-2327. Indebtedness for park purposes. (1) Subject to the provisions of subsection (2), a county park board, in addition to powers and duties now given under law, may contract an indebtedness in behalf of a county, upon the credit of the county, in order to carry out its powers and duties.

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 13% of the total of the taxable value of the taxable property in the county; plus:

(i) the value provided by the department of revenue under 15-36-324(13)~~, ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness~~; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the city or town for tax year 1999, multiplied by 13%.

(b) Money may not be borrowed on bonds issued for the purchase of lands and improving the land for any purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at the election in the affected county and a majority vote is cast in favor of the bonds."

Section 30. Section 7-16-4104, MCA, is amended to read:

"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes. (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit of the city or town, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise swimming pool facilities, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or any combination of these facilities; and

(c) for furnishing, equipping, repairing, or rehabilitating a swimming pool facility, athletic field, skating rink, playground, museum, golf course, civic center, or youth center.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 16.5% of the taxable value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness, plus an additional 50% of the taxable value of telecommunications property under 15-6-141 within the city or town for tax year 1999, multiplied by 16.5%. Money may not be borrowed for any purpose on bonds issued for the purchase of lands and improving the land until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor of the proposition."

Section 31. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

(a) income taxes, interest, and penalties collected under chapter 30;

(b) except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter 31;

(c) oil and natural gas production taxes allocated under 15-36-324(8)(a) and (10)(a);

(d) electrical energy producer's license taxes under chapter 51;

(e) ~~telephone company license taxes under chapter 53~~ an amount equal to 25% of the retail telecommunications excise tax collected under [sections 1 through 19];

(f) liquor license taxes under Title 16;

(g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(h) inheritance and estate taxes under Title 72, chapter 16; and

(i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department of revenue shall also deposit to the credit of the state general fund all money received from the collection of license taxes and fees and all net revenue and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

Section 32. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone

associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)~~(b)~~(a);

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1987 Standard Industrial Classification Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) Class five property is taxed at 3% of its market value."

Section 33. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) ~~all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;~~

~~(b)~~ all property owned by cooperative rural electrical ~~and cooperative rural telephone~~ associations that serve less than 95% of the electricity consumers ~~or telephone users~~ within the incorporated limits of a city or town, except rural electric cooperative properties described in 15-6-141(1)(a);

~~(c)~~(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) ~~To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.~~

~~(3)~~ Class seven property is taxed at 8% of its market value."

Section 34. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class nine property -- description -- taxable percentage. (1) Class nine property includes:

(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

(iii) property owned by organizations providing telephone communications to rural areas and classified in class ~~seven~~ five;

(iv) railroad transportation property included in class twelve; ~~and~~

(v) airline transportation property included in class twelve; and

(vi) telecommunications property included in class thirteen.

(2) Class nine property is taxed at 12% of market value."

Section 35. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural telephone associations and classified in class five; or

(b) property owned by organizations providing telecommunications services and classified in class five.

(3) Class thirteen property is taxed at 6% of its market value.

Section 36. Section 17-7-502, MCA, is amended to read:

"17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; [section 20]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-131; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-161; 85-20-402; 87-1-513; 90-3-301; 90-4-215; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)

17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; [section 20]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

Section 37. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) (a) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus~~:~~;

~~(i) for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and~~ for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, ~~in each case of class eight property,~~ multiplied by 45%; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the district for tax year 1999, multiplied by 45%.

(b) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus:

(i) ~~for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and~~ for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, ~~in each case of class eight property,~~ multiplied by 90%; and

(ii) an additional 50% of the taxable value of telecommunications property under 15-6-141 within the district for tax year 1999, multiplied by 90%.

(c) The total indebtedness of the high school district with an attached elementary district must be limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes, adjusted as provided in this section.

~~(c)~~(d) (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the corresponding statewide mill value per elementary ANB or per high school ANB may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection ~~(1)(c)~~ (1)(d), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

Section 38. Section 35-18-503, MCA, is amended to read:

"35-18-503. Exemption from taxes. Cooperatives and foreign corporations transacting business in this state pursuant to the provisions of this chapter, except as provided in 10-4-201 and [section 8], are exempt from all excise and income taxes."

Section 39. Section 69-3-861, MCA, is amended to read:

"69-3-861. Interim universal access program -- account. An interim universal access account is established in the state special revenue fund in the state treasury. All money received by the department of revenue pursuant to ~~69-3-860~~ the surcharge that was in effect during the fiscal year ending June 30, 1999, must be paid to the state treasurer for deposit in the account. After payment of refunds, the balance of the account must be used for the purposes described in 69-3-859."

Section 40. Repealer. Sections 15-53-101, 15-53-102, 15-53-103, 15-53-104, 15-53-105, 15-53-106, 15-53-111, 15-53-112, 15-53-113, 15-53-114, 15-53-115, and 69-3-860, MCA, are repealed.

Section 41. Codification instruction. (1) [Sections 1 through 19] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 19].

(2) [Section 20] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 20].

(3) [Section 35] is intended to be codified as an integral part of Title 15, chapter 6, and the provisions of Title 15, chapter 6, apply to [section 35].

Section 42. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective January 1, 2000.

(2) [Section 4] is effective on the occurrence of the contingency provided for in [section 44(1)].

(3) For the purposes of promulgating administrative rules under [section 17], [section 17] and this section are effective on passage and approval.

Section 43. Applicability. [This act] applies to tax years beginning after December 31, 1999.

Section 44. Contingent voidness. (1) If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is declared invalid, then [section 4] is effective on January 1 of the year following the date of the determination of invalidity.

(2) If House Bill No. 191 is submitted to and not approved by the electorate at the tax election to be held in 1999, then [this act] is void.

- END -

Latest Version of HB 128 *(HB0128.ENR)*
Processed for the Web on April 14, 1999 (1:19PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the status of the bill for the bill's primary sponsor.

Status of this Bill | 1999 Session | Leg. Branch Home
This bill in WP 5.1 | All versions of all bills in WP 5.1

Prepared by Montana Legislative Services
(406)444-3064

6 Mills University	$134,730	$282,445
9 Mills Welfare	101,550	208,672
Property Tax Reclassification		
6 Mills University		(247,396)
9 Mills Welfare	0	(182,727)
TOTAL	$236,280	$60,994

Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	$2,237,147	$334,575
State Special Revenue (02)	$236,280	$60,994

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
In FY2000, with no property tax effects and one quarter of reimbursements, there will be a net revenue gain to local governments of $3,841,824. In FY2001 the estimated property tax revenue reduction of $14,101,578 is offset by the telecommunication excise tax reimbursement amount of $15,926,847, which results in a net revenue gain of $1,825,269.

LONG-RANGE IMPACTS:
Impacts for fiscal years 2002 and beyond should reflect the impact in FY2001.

TECHNICAL NOTES:
1. School districts are required to budget at the BASE level under section 20-9-308 (1)(a), MCA. With the reduction in taxable values under this bill provisions of CI-75 will require voter approval to increase tax rates to continue to meet the minimum budget requirement. If voters do not approve the increase the district will be in violation of section 20-9-308, MCA.
2. In section 20 the bill excluded one parentheses in the reimbursement ratio.
3. Language to describe disbursements to taxing jurisdictions does not include a date or exact timeframe in which to make distributions.
4. A companion bill will be needed to place this measure on the ballot if CI-75 is sustained.